

# IRELAND'S RESPONSE TO RECENT TRENDS IN INTERNATIONAL PROTECTION APPLICATIONS

SAMANTHA ARNOLD, CONOR RYAN AND EMMA QUINN



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# IRELAND'S RESPONSE TO RECENT TRENDS IN INTERNATIONAL PROTECTION APPLICATIONS

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## ABOUT THIS REPORT

This European Migration Network study looks at Ireland's response to trends in international protection applications in the period 2014–2016. Relevant policies and practices have responded both to the wider EU refugee and migrant crisis, which had limited direct impact on Ireland but which changed the policy context, as well as to national increases and decreases in asylum applications. The report consists of information gathered by way of a common template, primarily for an overview, EU-level synthesis report: *The changing influx of asylum seekers in 2014-2016: Member State response*.

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## ABBREVIATIONS AND IRISH TERMS

AMIF	Asylum Migration and Integration Fund
CTA	Common Travel Area
Dáil	Parliament, lower house
DASS	Directorate of Asylum Seeker Services
DJE	Department of Justice and Equality
EC	European Commission
EMN	European Migration Network
ESRI	Economic and Social Research Institute
EPIC	Employment for People from Immigrant Communities
ETB	Education and Training Board
EROC	Emergency Reception and Orientation Centres
EU	European Union
EUREMA	Intra-EU Relocation from Malta
FRHAP	Family Reunification Humanitarian Admissions Programme
GP	General practitioner
ICI	Immigrant Council of Ireland
INIS	Irish Naturalisation and Immigration Service
IOM	International Organization for Migration
IPAT	International Protection Appeals Tribunal
IPO	International Protection Office
IRMC	Irish Refugee and Migrant Coalition
IRPP	Irish Refugee Protection Programme
IRRP	Irish Refugee Resettlement Programme
LAB	Legal Aid Board
Nasc	Irish Immigrant Support Centre
NGO	Non-governmental organisation
OPMI	Office for the Promotion of Migrant Integration
ORAC	Office of the Refugee Applications Commissioner
RAT	Refugee Appeals Tribunal
RIA	Reception and Integration Agency

SHAP	Syrian Humanitarian Admission Programme
Tánaiste	Irish deputy prime minister
TCN	Third country national
TD	<i>Teachta Dála</i> – Irish Member of Parliament
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNHCR	Office of the United Nations High Commissioner for Refugees

## EXECUTIVE SUMMARY

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The number of displaced persons has almost doubled over the last 20 years, reaching a record high of 65.6 million globally in 2016. Some 2.9 million of this number were refugees or asylum seekers (UNHCR, 2017a). The ongoing war in Syria, as well as major displacements resulting from conflict in Iraq, Yemen and sub-Saharan Africa, led to a large number of persons in need of protection attempting to reach the European Union (EU) between 2014 and 2016. Huge increases in irregular arrivals, mainly at southern and eastern Member States, as well as regular reports of multiple fatalities en route, led to the period becoming referred to by some as the refugee or migrant crisis. Asylum applications made within the EU increased rapidly in the period: in 2015, 1.32 million asylum applications were lodged, representing an increase of 110 per cent on 2014 when 627,000 applications were recorded. A slight decrease (5 per cent) in asylum applications in the EU was seen in 2016 (1.26 million), but this figure is still high when compared to pre-crisis levels (Eurostat, 2017).

This study looks at Ireland's response to recent trends in international protection applications during the period 2014–2016. In Ireland, like in many other Member States, a number of legislative and policy changes were introduced in those years specifically to address or manage fluctuations in the number of asylum applications, or to better control migration flows. Such policies and practices responded both to the wider EU refugee and migrant crisis, which had limited direct impact on Ireland but which changed the policy context, as well as to national increases and decreases in asylum applications.

The scope of this report is limited to policy, practice and legislation regarding relocation and spontaneously arriving asylum applicants. Due to the fact that resettled refugees are not applicants for international protection, resettlement is excluded from the scope of this study.<sup>1</sup>

### RECENT TRENDS IN INTERNATIONAL PROTECTION APPLICATIONS IN IRELAND

The flow of displaced persons into Ireland has been much lower than in many EU Member States and the nationalities of applicants have been somewhat different. Despite its peripheral geographical location, Ireland did experience an increase in asylum applications in the years that correspond with the EU refugee and migrant crisis: after a sustained period of decreasing asylum applications, 2014 saw a 53

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<sup>1</sup> For information on resettlement in Ireland, see Arnold and Quinn (2016).

per cent increase over the previous year (1,448 applications were made in 2014 compared to 946 in 2013). During 2015, applications increased again by 126 per cent, to reach 3,276 before declining to 2,244 in 2016.

In 2016, the top five countries of origin of asylum applicants in Ireland were: Syria (11 per cent), Pakistan (10 per cent), Albania (10 per cent), Zimbabwe (9 per cent) and Nigeria (8 per cent) (ORAC, 2017). Syria, Pakistan and Nigeria were also among the top five countries of origin among asylum applicants to the EU as a whole in 2016 (the others were Afghanistan and Iraq) (Eurostat, 2017).

In previous years, flows of asylum applicants to Ireland have been somewhat unusual, in an EU context.<sup>2</sup> By contrast, the direct impact of the recent EU refugee and migrant crisis on applications in Ireland is evident from the 2016 data: Syrian applicants formed the largest group (244) of asylum applications submitted in that year. In addition, Irish policy became indirectly affected by the crisis through related developments; under the EU relocation programme the Irish government committed to relocating 2,622 persons including 20 unaccompanied minors, while under the Calais Special Project Ireland committed to bringing up to 200 unaccompanied minors previously living at the Calais camp to Ireland under the Calais Special Project (European Commission, 2018b).

## **TRANSITIONING TO THE NEW ASYLUM APPLICATION SYSTEM**

Waiting times for first international protection interview increased from 10.8 weeks in 2015 to 16 weeks in 2016, due to the implementation of changes mandated by the new International Protection Act 2015. The International Protection Act 2015 introduced a new single procedure for applications for international protection (refugee status and subsidiary protection) and permission to remain (Department of Justice and Equality). The International Protection Office (IPO) observed that the streamlined approach should eventually lead to more efficient processing of applications, once all backlogs are cleared.<sup>3</sup>

Limited staff resources also impacted on waiting times. UNHCR noted that while the IPO panel was expanded and more IPAT members were hired, a shortage of administrative support staff persists.<sup>4</sup> Increased waiting times and pressures, stemming from the transition from systems governed by the Refugee Act 1996, as amended, to systems governed by the International Protection Act 2015, were

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<sup>2</sup> According to Eurostat, in 2015 Albanian was the only one of the top five nationalities among asylum applicants in Ireland (the others were Pakistani, Bangladeshi, Nigerian and Indian) to also be listed among the top five nationalities in the EU28 (where the others were Syrian, Iraqi, Kosovan and Albanian) (Eurostat, 2017).

<sup>3</sup> Correspondence with IPO, September 2017.

<sup>4</sup> Interview with UNHCR, October 2017.

foreseen. The McMahon Report (2015) for example recommended clearing a backlog of asylum applications before commencing the 2015 Act, but this was not achieved.

UNHCR indicated that waiting times are unlikely to fall for some time due to the processing backlog within the IPO.<sup>5</sup> In 2014 and 2015, increases in applications were recorded and in their annual reports the Office of the Refugee Applications Commissioner (ORAC) (now IPO) noted that staff and resource shortages contributed to the delay in processing applications (ORAC, 2015; ORAC, 2016). Commentators have reported that the average wait time for first interview is currently 20 months for new asylum applicants (Irish Refugee Council, 2017a; Thornton, 2018). The processing backlog is likely to put additional pressure on the accommodation systems for asylum seekers.

IRMC observed that the backlog in asylum applications is a key challenge and expressed the view that insufficient resources have been put in place to deal with the transition to the new system (IRMC, 2017).<sup>6</sup>

## **DIRECT RESPONSES TO THE EU REFUGEE AND MIGRANT CRISIS**

UNHCR Ireland has observed that a number of elements in the Irish response to the EU refugee crisis represented positive change, including: the establishment of the Irish Refugee Protection Programme (IRPP); the level of engagement on the issue of international protection by ministers and the Tánaiste (Irish deputy prime minister); and new and additional personnel joining the national bodies responsible for relocation, resettlement and spontaneously arriving protection applicants.<sup>7</sup>

The IRPP has four key strands: resettlement and relocation in accordance with pledges made under the EU resettlement and relocation programmes (including the relocation of unaccompanied minors); a cross-departmental taskforce to deal with operational and logistical aspects of the programme; a method for engaging public pledges of support through the Irish Red Cross; and the Emergency Reception and Orientation Centres (EROCs) for resettled and relocated persons. The Calais Special Project also operates under the IRPP.

UNHCR and the Irish Refugee and Migrant Coalition (IRMC) also observed that the establishment of the IRMC was a positive step.<sup>8</sup> The IRMC is a coalition composed of over 20 non-governmental organisations. The coalition was set up in 2015 to

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<sup>5</sup> Interview with UNHCR, October 2017.

<sup>6</sup> Interview with IRMC, September 2017.

<sup>7</sup> Interview with UNHCR, October 2017.

<sup>8</sup> Interviews with UNHCR, October 2017 and IRMC, September 2017.

work collaboratively towards advancing the rights and dignity of people on the move and those in need of international protection (IRMC).

### **ACCOMMODATING ASYLUM APPLICANTS**

The availability of beds for asylum seekers in the Direct Provision system of accommodation has been impacted upon by increased flows of asylum seekers, including relocated applicants. There have also been delays in people leaving the system after they have been granted permission to remain in Ireland, often due to a scarcity of housing.<sup>9</sup> Challenges faced in removing persons with deportation orders have further contributed to the problem.<sup>10</sup> Bed capacity has also been affected by structural refurbishments to the centres for asylum seekers, brought in partly due to the McMahon Report (2015) recommendations on improvements to the asylum system.<sup>11</sup>

EROCs were established to temporarily accommodate persons in need of international protection who had recently arrived via resettlement or relocation to Ireland, while their claims are being processed. UNHCR noted that the EROCs are presently full and that it has not been possible to secure additional accommodation.<sup>12</sup> The wider housing crisis in Ireland has made it difficult to secure more EROCs and to facilitate beneficiaries to settle into new homes in long-term resettlement communities (D'Arcy and Pollak, 2017b).

In 2015, the Irish government asked the Irish Red Cross to coordinate pledges from members of the public to support refugees and asylum seekers arriving as part of the resettlement and relocation programmes (Department of Justice and Equality, 2015b). In November 2017, the Irish Red Cross reported that they had begun placing refugees in suitable housing and that 65 refugees had been settled in housing across nine counties.

### **PROVIDING SERVICES TO REFUGEES AND ASYLUM APPLICANTS**

The significant demand for dental care among refugees and relocated refugees and asylum seekers was highlighted by IRMC and Doras Luimní.<sup>13</sup> Doras Luimní further observed that mental health services and counselling are not readily available.<sup>14</sup> The media also reported on a private briefing paper prepared for the Minister for Justice and Equality in July 2017 in which government officials expressed concern

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<sup>9</sup> Consultation with RIA, November 2017.

<sup>10</sup> Interview with UNHCR, October 2017.

<sup>11</sup> Consultation with RIA, November 2017.

<sup>12</sup> Interview with UNHCR, October 2017.

<sup>13</sup> Interview with IRMC, September 2017; Consultation with Doras Luimní, November 2017.

<sup>14</sup> Consultation with Doras Luimní, November 2017.

that the provision of services, in particular healthcare, to refugees arriving under relocation and resettlement programmes was inadequate for their needs.

## **RESPONDING TO FUTURE TRENDS IN INTERNATIONAL PROTECTION APPLICATIONS**

IRMC have expressed the opinion that measures introduced as part of the IRPP were ad hoc in nature.<sup>15</sup> UNHCR have observed that, as a result of the increase in resettlement and relocation figures, the relevant departments now recognise that preparing for future arrivals requires planning and infrastructure.<sup>16</sup> Both agencies have observed a desire on the part of government to establish a clearer national policy on resettlement that might improve the relevant infrastructure, thereby making it scalable.<sup>17</sup>

As the expected number of people eligible to be transferred under the EU relocation scheme was not reached, in November 2017 the then Minister for Justice and Equality announced the establishment of a new scheme of family reunification support for refugees and their families as a way of Ireland fulfilling its outstanding commitment under the IRPP. This scheme will be known as the Family Reunification Humanitarian Admissions Programme (FRHAP). Over a two-year period, it will see up to 530 immediate family members that are outside the scope of the International Protection Act 2015 come to Ireland as part of the IRPP.<sup>18</sup>

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<sup>15</sup> Interview with IRMC, September 2017.

<sup>16</sup> Interview with UNHCR, October 2017.

<sup>17</sup> Interview with IRMC, September 2017, and UNHCR, October 2017.

<sup>18</sup> Consultation with IPP, February 2018.

## SECTION 1

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### Introduction

#### 1.1 OBJECTIVES AND BACKGROUND TO THE STUDY

This study is based on information gathered for the EU-level report, *The changing influx of asylum seekers in 2014–2016: Member State responses*. This EU-wide report provides an overview of changes made to national strategies, approaches and measures in response to increases or decreases to the influx of asylum seekers over the period 2014–2016. This Irish national study looks at Ireland’s response to recent trends in international protection applications within the same period. Such policies and practices responded both to the wider EU refugee and migrant crisis (discussed below), which had limited direct impact on Ireland but which changed the policy context, as well as to national increases and decreases in asylum applications. The study focuses on policy-related, institutional and operational changes taken by state bodies and non-state bodies acting on behalf of the national authorities. Measures discussed include border control, the asylum application process and the contents of protection.

Globally, the number of persons experiencing forced displacement has almost doubled over the last 20 years.<sup>19</sup> Figures increased significantly during the period 2012 to 2015 and in 2016 the population of forcibly displaced persons reached a record high of 65.6 million, 2.8 million of whom were asylum seekers and 22.5 million of whom were refugees (UNHCR, 2017a). The increase in the number of persons seeking asylum was driven primarily by the conflict in Syria and, to a lesser extent, by conflicts in Iraq, Yemen and sub-Saharan Africa (UNHCR, 2017a).<sup>20</sup> In response to the sustained increase in the number of displaced persons, the United Nations (UN) held a Summit for Refugees and Migrants in September 2016. The Permanent Representatives (heads of diplomatic missions to the UN) of Ireland and Jordan co-facilitated the summit, during which the New York Declaration was adopted (UN, 2016). The purpose of the Declaration is to reaffirm the importance of the 1951 Convention and 1967 Protocol relating to the Status of Refugees and to recognise the need for international cooperation on the issue of refugees and vulnerable migrants.

The majority of refugees flee to bordering countries (Betts and Collier, 2017). Turkey for example shares a border with Syria and is the largest refugee host country in the world; it hosted 2.9 million refugees in 2016 (UNHCR, 2017a). Low-

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<sup>19</sup> The global population of forcibly displaced people increased by 94 per cent, from 33.9 million in 1997 to 65.6 million in 2016 (UNHCR, 2017).

<sup>20</sup> For example: Burundi, the Central African Republic, the Democratic Republic of Congo, South Sudan and Sudan.

and middle-income countries hosted 84 per cent of the world's refugees in 2016 (UNHCR, 2017a). However, refugee movements are complex and some people may seek asylum in countries other than border states, such as in Europe. Refugees and asylum seekers in countries such as Jordan and Lebanon, which hosted 685,000 and one million refugees respectively in 2016, may not be able to access the local labour market, housing, or essential social benefits due to restrictions set out in national law (Betts and Collier, 2017). Some refugees and asylum seekers may choose to engage in secondary migration and continue to migrate towards Europe. A desire to join family may also account for some secondary movements in refugee flows. For these reasons, and others, Europe has also experienced unprecedented refugee and asylum seeker inflows in recent years.

In 2015, 1.32 million asylum applications were lodged in the European Union (EU). This represents an increase of 110 per cent on 2014, when 627,000 applications were recorded. There was a slight decrease (5 per cent) in asylum applications in the EU in 2016 (1.26 million), but this figure is still high when compared to pre-crisis levels (Eurostat, 2017).

The increase in asylum applications put considerable pressure on some Member States, resulting in significant policy changes. For example, Germany and Sweden, which were the top two asylum seeker receiving countries in the EU in 2014 (see Figure 1.2, p. 8), introduced changes to their family reunification policy in response to the influx. Access to family reunification for beneficiaries of subsidiary protection was temporarily suspended (EMN, 2017).<sup>21</sup> The Common European Asylum System Framework (CEAS), in particular the Dublin III Regulation, was also tested (Fullerton, 2016).<sup>22,23</sup> National responses to the influx varied across Member States, many of which introduced policy and legislative changes either on a temporary or permanent basis.

While the flows into Ireland are lower than those seen in many Member States, Ireland did experience an increase in asylum applications in the years that correspond with the EU refugee and migrant crisis (2014–2015). After a sustained period of decreasing asylum applications, there was an upward fluctuation in 2014,

<sup>21</sup> Pursuant to Article 2(f) of Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of protection granted: a 'person eligible for subsidiary protection', means: 'a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 1 ... and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country'.

<sup>22</sup> The objectives of the Common European Asylum System (CEAS) are: harmonisation of standards of protection by aligning Member States' asylum legislation; cooperation among Member States; and solidarity among Member States and between the EU and non-EU countries. Underpinning the CEAS are five legal instruments: Directive 2013/32/EU, Directive 2013/33/EU, Directive 2011/95/EU, Regulation (EU) 604/2013, and Regulation (EU) 603/2013.

<sup>23</sup> The Dublin III Regulation (EU) No. 604/2013 establishes the process for determining the Member State responsible for processing an asylum application.

with 1,448 applications in total, representing a 53 per cent increase over the previous year (946 applications were submitted in 2013). In 2015, applications rose to 3,276, representing a 126 per cent increase on 2014 (1,448) (see Figure 1.3, p. 11). In Ireland, as in many other Member States, a number of legislative and policy changes were introduced during the period 2014–2016 specifically to address or manage fluctuations in the number of asylum applications, or to better control migration flows.

Section 2 looks at the historical context of asylum in Ireland. It discusses the first influx of asylum seekers, which peaked in 2002. It also outlines the policy and legislative developments that were introduced in response to trends in international protection applications. Section 3 looks at changes in Irish legislation relevant to the recent trends. Section 4 outlines the main policy response in Ireland to the EU refugee and migrant crisis (2014–2016): the IRPP. Section 5 looks at additional measures and legislative changes that were introduced during the study period that are relevant to recent trends in international protection applications and the wider EU refugee and migrant crisis. Key findings from the study are reviewed in Section 6.

## 1.2 METHODOLOGY

The study collates data and information on changes to national and EU policy, practice and legislation on the management of asylum applications in response to the increase in asylum applications in 2014–2015 and the decrease in applications in 2016. It also provides an overview of changes to asylum policies and organisational measures introduced over this period.

The purpose of this research is to provide an evidence base for national and EU policymakers, researchers, practitioners working with refugees/on protection issues, as well as the general public. This is the first study in Ireland to outline in detail all changes to asylum policies and organisational measures introduced in response to the EU refugee and migrant crisis in respect of asylum seekers, as well as the national increase in applications during the same period.

The scope of this report is limited to policy, practice and legislation regarding relocation and spontaneously arriving asylum applicants. Due to the fact that resettled refugees are not applicants for international protection, resettlement is excluded from the scope of this study.<sup>24</sup>

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<sup>24</sup> For information on resettlement in Ireland, see Arnold and Quinn (2016).

Desk research was undertaken at the outset, including a review of existing academic and policy-based literature. The temporal scope of the study is January 2014 to December 2016; 2017 data and information are provided where available and relevant.

A large amount of information was obtained from government publications and websites, in particular from the Department of Justice and Equality. Interviews were then undertaken with officials from the UN Refugee Agency, UNHCR Ireland and the Irish Refugee and Migrant Coalition (IRMC). National data were obtained through the International Protection Office (IPO).

Outstanding information gaps were filled with comments from the IPO, the Child and Family Agency Tusla, the Reception and Integration Agency, International Protection Policy Division (IPP), the Office for the Promotion of Migrant Integration, as well as from Doras Luimní. The report was internally and externally reviewed.

The information used to produce this report was gathered according to commonly agreed European Migration Network (EMN) specifications developed to facilitate comparability across countries. The EMN is tasked with producing studies on topics of relevance to policymakers at national and EU levels, in order to meet long and short-term information needs.<sup>25</sup> Topics may be proposed for in-depth strategic studies with long-term relevance, or for shorter studies, responding to immediate information needs. Each EMN National Contact Point produces a national report and a comparative synthesis report is then produced, which brings together the main findings from the national reports and places them within an EU perspective.

### 1.3 EU CONTEXT

Asylum is a competence shared between the EU and the Member State as established by the agreement on the CEAS, which emerged from the 1999 Tampere Summit.<sup>26</sup> The EU Commission's *Policy plan on asylum* set out three pillars, which underpin the development of the CEAS: harmonisation of Member States' asylum legislation; effective, well-supported and practical cooperation; and increased solidarity and sense of responsibility among Member States and between Member States and non-EU countries (Commission of the European Communities, 2008). Almost a decade after the Tampere Summit, the Treaty on the Functioning of the European Union (TFEU) entered into force in 2009. The TFEU gave the EU powers to develop legislation on asylum matters (Articles 79 and 80). The CEAS is

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<sup>25</sup> Council Decision 2008/381/EC establishing the EMN was adopted on 14 May 2008.

<sup>26</sup> The Competences of the EU are defined in Articles 2–6 of the Treaty on the Functioning of the European Union. Article 4 includes the areas of freedom, security and justice.

comprised of five legal instruments: the (recast) Asylum Procedures Directive;<sup>27</sup> the (recast) Qualification Directive;<sup>28</sup> the (recast) Reception Conditions Directive;<sup>29</sup> the Dublin III Regulation;<sup>30</sup> and the revised Eurodac Regulation.<sup>31</sup>

- The (recast) Asylum Procedures Directive established common procedures for granting and withdrawing international (refugee and subsidiary) protection.<sup>32</sup>
- The (recast) Qualification Directive established minimum standards for the qualification of persons as refugees or beneficiaries of subsidiary protection.
- The (recast) Reception Conditions Directive sets down the standards for the reception of asylum applicants.
- The (recast) Dublin Regulation established the process for determining the Member State responsible for processing an asylum application.
- The Dublin III Regulation is complemented by the (recast) Eurodac Regulation, which provides for an EU asylum fingerprint database in order to establish the identity of applicants for international protection and of persons apprehended crossing the external EU border irregularly.

A number of developments took place in 2015 concerning the implementation of the CEAS instruments. The (recast) Eurodac Regulation came into effect on 20 July 2015. Member States bound by the (recast) Asylum Procedures Directive and the (recast) Reception Conditions Directive were required to transpose them into their national law by 20 July 2015.<sup>33</sup> In 2016, the European Commission adopted two packages of legislative proposals to reform the CEAS. The overall aim of the proposed measures is to simplify the asylum procedure and shorten the time required for decision-making. The proposals also seek to discourage secondary movements within the EU and to increase integration prospects for those entitled to international protection. The proposals are currently being discussed by the European Parliament and the Council of the EU (EMN, 2018, forthcoming).

In addition, the European Commission adopted the European Agenda on Migration on 13 May 2015.<sup>34</sup> This contained policy proposals aimed at:

- implementing measures to save lives at sea;
- combating criminal smuggling networks;
- responding to the increase in arrivals of asylum seekers within the EU by establishing a relocation programme;

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<sup>27</sup> Recast Asylum Procedures Directive 2013/32/EU.

<sup>28</sup> Recast Qualification Directive 2011/95/EU.

<sup>29</sup> Recast Reception Conditions Directive 2013/33/EU.

<sup>30</sup> Dublin III Regulation (EU) 604/2013.

<sup>31</sup> Eurodac Regulation 603/2013.

<sup>32</sup> Refugee protection and subsidiary protection are both regulated by the relevant CEAS Directives. Pursuant to the Recast Qualification Directive 2011/95/EU, refugees are persons who without protection face a real risk of persecution and beneficiaries of subsidiary protection are persons who without protection face a real risk of serious harm.

<sup>33</sup> With some exceptions (see EMN, 2018, forthcoming).

<sup>34</sup> In response to the European Council (2015).

- developing a common approach to resettlement;
- strengthening the CEAS;
- implementing a long-term migration strategy; and
- implementing the 'Hotspot' approach (for Italy and Greece) (European Commission, 2015a, 13 May).

Some Member States introduced changes to national legislation by transposing the (recast) Asylum Procedures Directive and the (recast) Reception Conditions Directive. Some Member States had previously amended more generous national legislation to more closely reflect the minimum standards provided by the CEAS (EMN, 2018, forthcoming).

A number of other measures were proposed at EU level in light of the refugee and migrant crisis, including: the EU Action Plan on Return, in September 2015 (European Commission, 2015a);<sup>35</sup> the EU Naval Force Mediterranean (EUNAVFOR MED), in October 2015 (EUNAVFOR MED, 2017);<sup>36</sup> the EU Trust for Africa, in November 2015;<sup>37</sup> the EU–Turkey Statement, in March 2016;<sup>38</sup> the Migration Partnership Framework, in June 2016;<sup>39</sup> the EU and Afghanistan Cooperation Agreement, in February 2017 (European Commission, 2017b);<sup>40</sup> and an EU Action Plan on measures to support Italy, reduce pressure along the Central Mediterranean route and increase solidarity, published on 4 July 2017 (European Commission, 2017a).<sup>41</sup>

### 1.3.1 Overview of main trends in Europe

Figure 1.1 shows that the number of all asylum applications lodged in the EU increased annually from 2010 to 2014, followed by a dramatic increase in 2015. As stated above, asylum applications more than doubled between 2014 and 2015

<sup>35</sup> A renewed action plan, 'On a more effective return policy in the European Union' was published 2 March 2017.

<sup>36</sup> The core mandate of which is to systematically identify, capture and dispose of vessels and enabling assets used or suspected of being used by migrant smugglers or traffickers operating in the southern–central Mediterranean.

<sup>37</sup> The Trust Fund pools together money from different European Commission financial instruments, resources from the EU Member States, Norway and Switzerland for initiatives and measures designed to tackle the root causes of irregular migration and displacement in countries of origin, transit and destination (European Commission).

<sup>38</sup> In an effort to bring an end to the irregular migration from Turkey to the EU, the EU and Turkey agreed on the following action points, among others: irregular migrants crossing from Turkey into Greece will be returned to Turkey; and for every Syrian returned to Turkey from Greece, another Syrian will be resettled from Turkey to the EU (European Commission, 2017b).

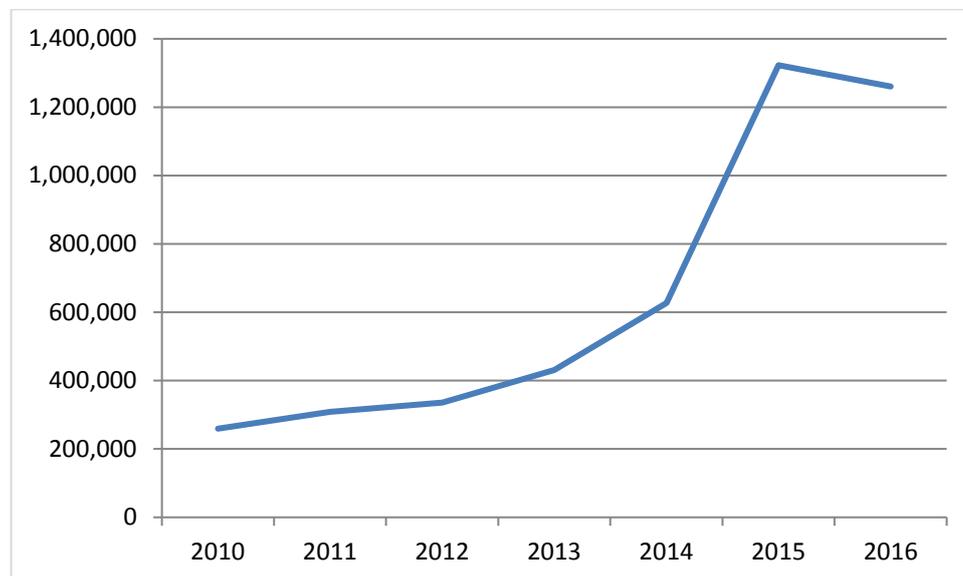
<sup>39</sup> The Framework outlines a new approach for cooperation among the European Union's Member States, the EU institutions, and third countries to better manage migration flows and strive for well-managed migration (European Commission, 2016c).

<sup>40</sup> The Agreement provides the basis for developing 'a mutually beneficial relationship' in areas such as the rule of law, health, rural development, education, science and technology, as well as actions to combat corruption, money laundering, the financing of terrorism, organised crime and narcotics. It also foresees cooperation on migration.

<sup>41</sup> Proposed measures include: enhance capacity of Libyan authorities; support the establishment of a Maritime Rescue and Coordination Centre in Libya; set up funding for migration management in Italy; and ensure mobilisation of EU Agencies such as EASO.

(from 627,000 to 1.32 million). There was a slight decrease (5 per cent) in asylum applications in the EU in 2016 (1.26 million).

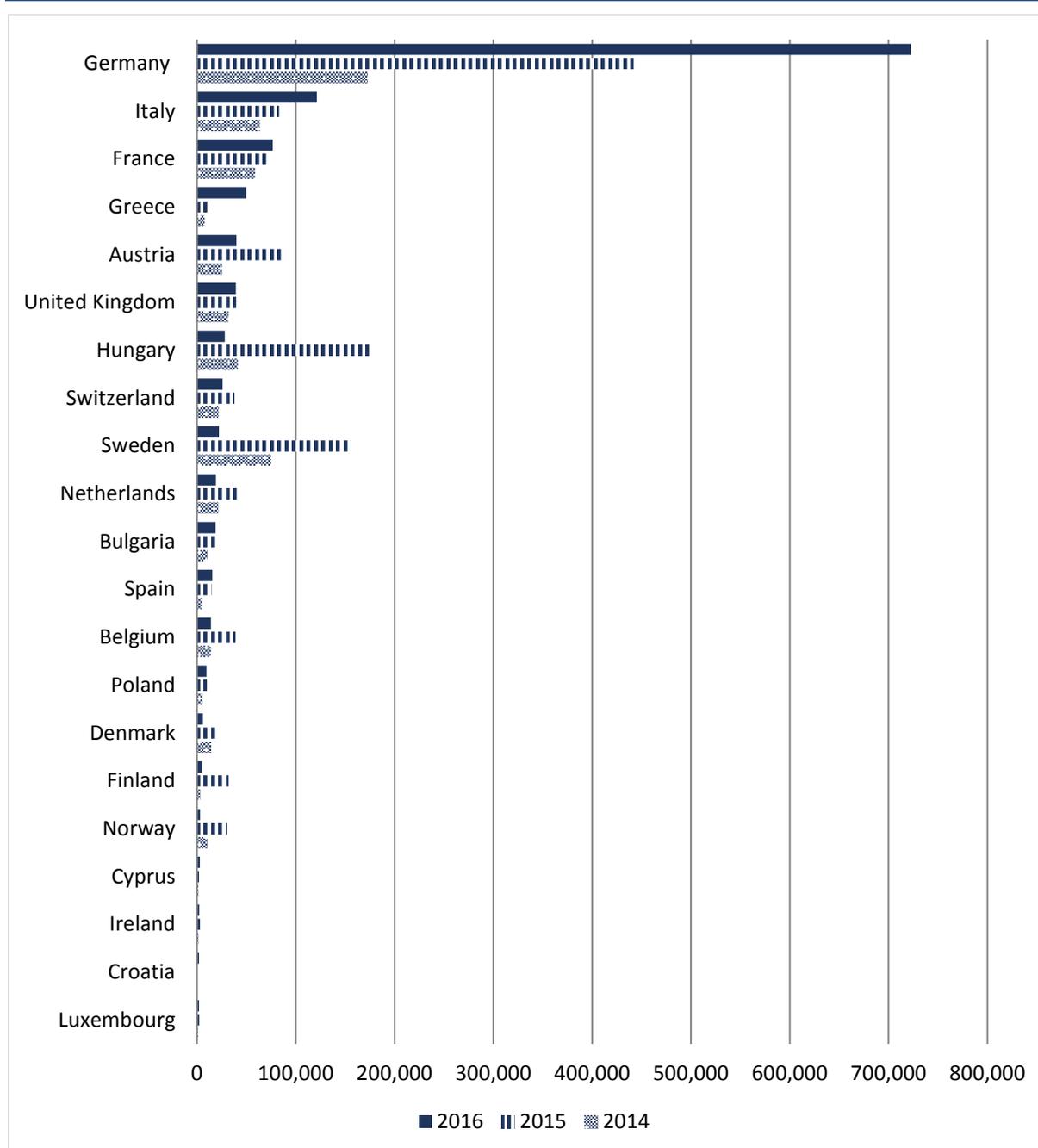
**FIGURE 1.1 ASYLUM APPLICANTS IN EU, 2010–2016**



Source: Eurostat [migr\_asyappctza]

In 2014, Germany, Sweden, Italy and France received the highest number of first-time applicants across the EU and Norway. In the same year, Ireland ranked 19th out of 29 in applications received in that jurisdiction. In the following year (2015), Germany, Hungary, Sweden, and Austria received the highest number of first-time asylum applicants. In that year, Ireland ranked 18th out of 29 in applications received (See Figure 1.2).

Despite the overall drop in first-time asylum applicants in the EU in 2016, seven Member States all saw an increase in applications in 2016 (Croatia, Cyprus, France, Germany, Greece, Italy and Spain). From 2015 to 2016, Germany experienced an increase of 63 per cent (441,800 to 722,265), while in Greece first-time applicants increased by 339 per cent (11,370 to 49,875) and in Italy by 46 per cent (83,245 to 121,185). In 2016, Ireland ranked 19th out of 29 in terms of applications received.

**FIGURE 1.2 FIRST-TIME ASYLUM APPLICANTS IN EU AND NORWAY, 2014–2016**

Source: Eurostat [migr\_asyappctza]

Note: Nine Member States with fewer than 2,000 applications in 2014/2015/2016 are excluded from the chart: the Czech Republic, Estonia, Latvia, Lithuania, Malta, Portugal, Romania, Slovakia and Slovenia.

The vast differences between Member States in the number of asylum applications received reflect geographical location as well as differences in the responses of political leaders. Greece and Italy have received high numbers of asylum applicants, many of whom arrived via the Mediterranean due to their geographical proximity to Syria, Turkey and north Africa. German Chancellor Angela Merkel announced in late August 2015 that asylum seekers arriving to Germany via Hungary would be permitted to stay and have their applications determined in

Germany rather than invoking the relevant provisions under the Dublin III Regulation to transfer those persons back to Hungary. Refugees began to transit through Austria after Hungary increased security along their borders with Croatia and Serbia. In response, in September 2015 Chancellor Merkel and Austrian Chancellor Werner Faymann announced that official transit from Austria to the German border would be provided. The result of these ‘open-door’ policies was an increase in refugee movements to Germany, in particular from Syria (Betts and Collier, 2017).

#### 1.4 IRELAND IN AN EU CONTEXT

As provided for under Article 4 of Protocol 21 annexed to the Treaty on the European Union (TEU) and the TFEU, in the context of Freedom, Security and Justice, Ireland may participate in any proposed measure.<sup>42</sup>

Ireland exercised its right to participate in the original Asylum Procedures Directive (2005/85/EC), the Dublin III Regulation (and the earlier Dublin Convention and Regulations), the (recast) Eurodac Regulation (and previous Eurodac Regulation) and the original Qualification Directive (2004/83/EC). Ireland did not exercise its right to participate in the (recast) Asylum Procedures Directive, the (recast) Qualification Directive, or either the original Reception Conditions Directive (2003/9/EC) or the (recast) Reception Conditions Directive.

On 21 November 2017, the Minister for Justice and Equality announced the decision to opt in to the (recast) Reception Conditions Directive (UNHCR, 2017b). This formed part of the response to the Supreme Court ruling of 30 May 2017, which effectively ended the absolute prohibition on asylum seekers’ access to the Irish labour market.<sup>43</sup> In February 2018, the Supreme Court made a formal declaration that an absolute ban on asylum seekers’ accessing employment is unconstitutional. Until the transposition of the Directive, asylum seekers may access the labour market pursuant to the relevant law and policy governing employment permits. In practice, this means that applicants: cannot take up jobs that a European Economic Area (EEA) national could fill; must apply for jobs where the salary is more than €30,000 per year; are required to pay an application fee (€500 for a six-month permit or €1,000 for a 12-month permit); and cannot apply for positions in 60 different areas including hospitality, healthcare, social work, childcare, general care services, marketing, sales, housekeeping, food and

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<sup>42</sup> Ireland ‘may notify the President of the Council in writing, within three months after a proposal or initiative has been presented to the Council pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union, that it wishes to take part in the adoption and application of any such proposed measure, whereupon that State shall be entitled to do so’.

<sup>43</sup> *NHV v Minister for Justice and Equality and ors* [2017] IESC 35.

construction. This proposal has been met with criticism, including from civil society organisations (Pollak, 2018).

A number of legislative and policy changes were introduced in Ireland during the reference period (2014–2016) specifically to address or manage fluctuations in the number of asylum applications, or to better control migration flows. Section 81 of the International Protection Act 2015 amended a border control provision of the Immigration Act 2004 (see Section 4). In 2014, the Syrian Humanitarian Admission Programme (SHAP) was introduced to facilitate family reunification for some Syrians residing in Ireland (see Section 5). In 2015, the Irish Refugee Protection Programme (IRPP) was established in response to developments in Europe. One aspect of the IRPP is the management of the EU relocation scheme. This is discussed in detail in Section 3. The commitment to bring unaccompanied minors to Ireland from the former refugee camp in Calais (known as 'the Jungle') also arose during the reference period (see Section 3). These changes were introduced both in response to the situation in Ireland (for example, section 81 of the 2015 Act, see page 25 of this report) and in neighbouring/other Member States (for example, the relocation programme, IRPP and the commitment to bring unaccompanied minors from Calais). Some changes discussed throughout this study have brought Irish legislation more into line with EU law (see Section 4).

#### **1.4.1 Overview of trends in international protection applications in Ireland**

##### ***Asylum applications***

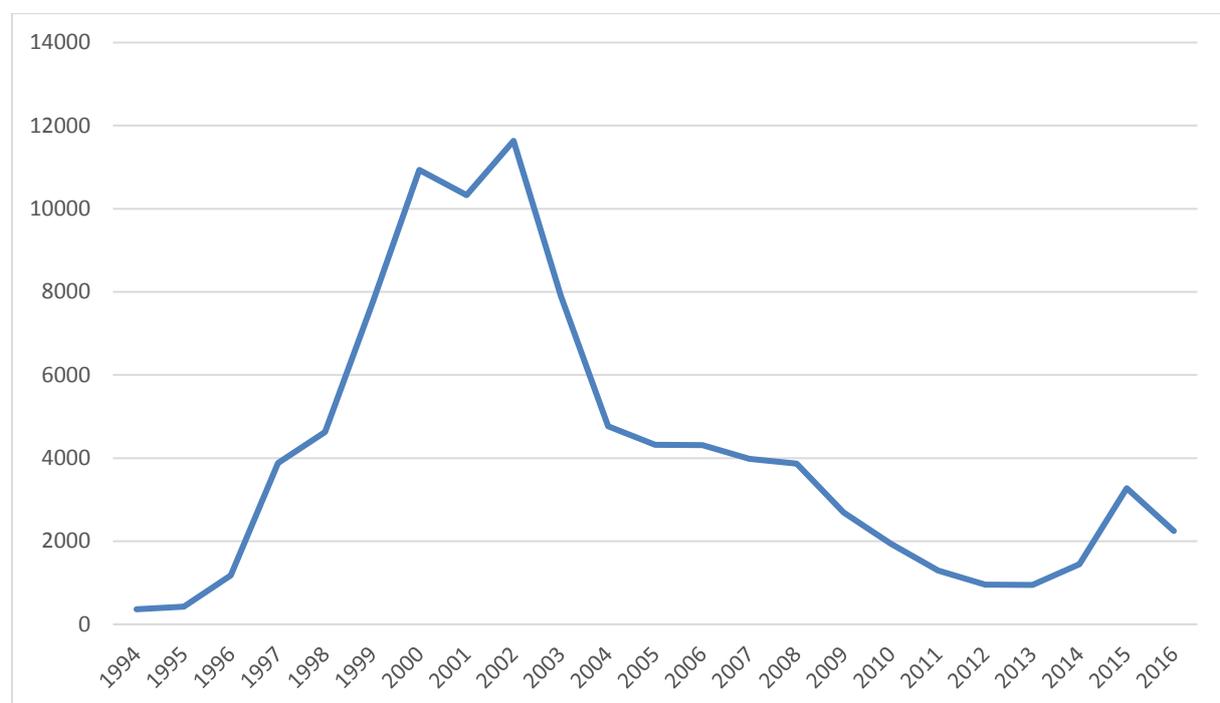
Ireland receives a small number of asylum applications relative to other countries in the EU. Figure 1.3 shows that after a sustained period of decreasing asylum applications, 2014 saw an upward fluctuation, with 1,448 applications submitted in that year – a 53 per cent increase on 2013 when 946 applications were submitted (ORAC, 2015).

Figure 1.4 shows that, in 2014, Ireland received most applicants from the following five countries: Pakistan (20 per cent), Nigeria (10 per cent), Albania (7 per cent), Bangladesh (7 per cent) and Zimbabwe (6 per cent).

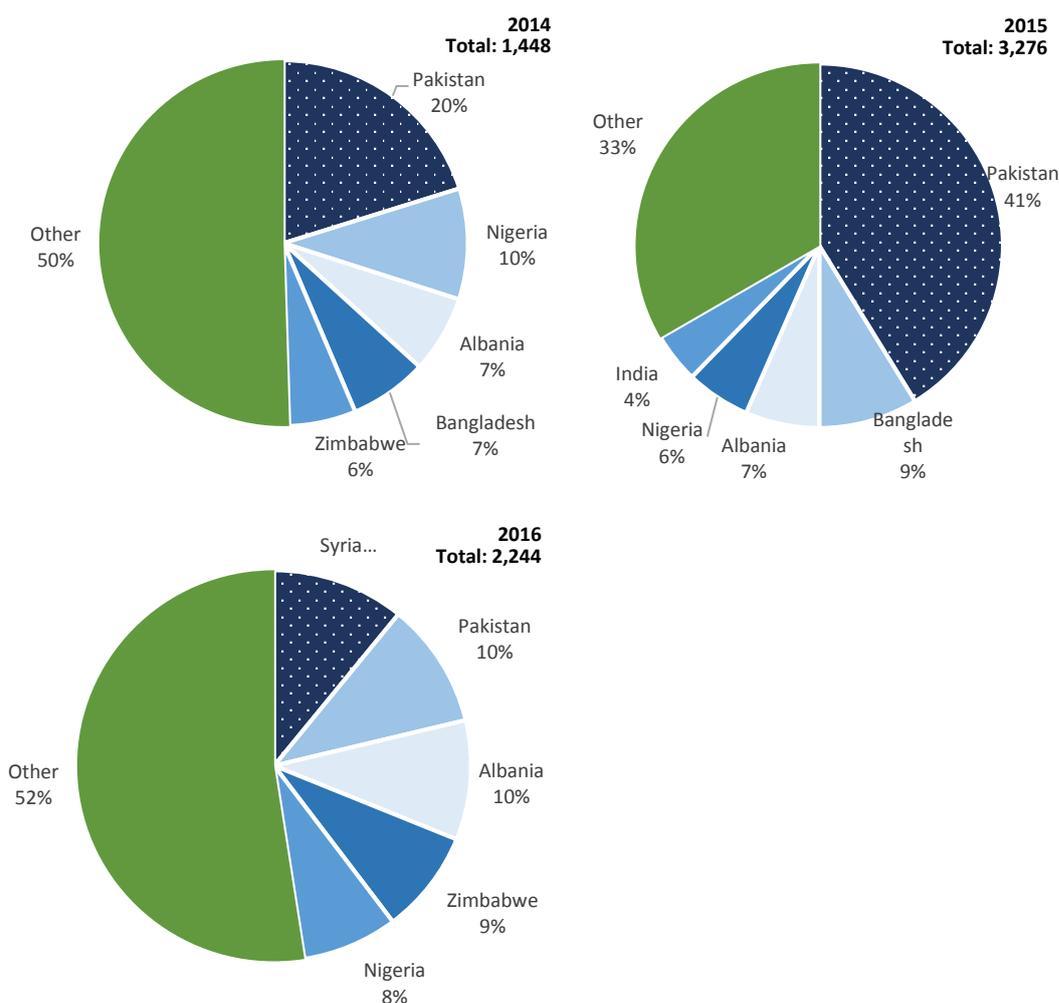
In 2015, applications rose to 3,276, representing a 126 per cent increase on 2014, which saw 1,448 applications (ORAC, 2017). The primary countries of origin for 2015 were: Pakistan (41 per cent), Bangladesh (9 per cent), Albania (7 per cent), Nigeria (6 per cent) and India (4 per cent). Pakistani and Bangladeshi applicants accounted for 50 per cent of all applications received (ORAC, 2016). Until recently, flows of asylum applicants to Ireland were somewhat different in nationality to the EU; in 2015, Albania was the only one of Ireland's top five nationalities to also appear in the top five applicants to the EU28 as a whole (where the other top five nationalities were Syria, Afghanistan, Iraq and Kosovo).

In 2016, applications to Ireland dipped to 2,244, a decrease of 32 per cent from 2015 (ORAC, 2017). The top five countries of origin for 2016 were Syria (11 per cent), Pakistan (10 per cent), Albania (10 per cent), Zimbabwe (9 per cent) and Nigeria (8 per cent) (ORAC, 2017). Syria, Pakistan and Nigeria were also among the EU top five for 2016 (the others were Afghanistan and Iraq) (Eurostat, 2017). Syrians constituted the majority of those seeking asylum in the State. There were 244 asylum applications lodged by Syrians in Ireland in 2016, representing an increase of 230 per cent on the figures from 2015 (ORAC, 2017). Arrivals under the relocation strand of the IRPP contributed in part to the increase in applications from Syrians in Ireland.

**FIGURE 1.3 TOTAL ASYLUM APPLICATIONS IN IRELAND, 1994–2016**



Source: ORAC, 2017.

**FIGURE 1.4 TOP FIVE COUNTRIES OF ORIGIN OF ASYLUM APPLICANTS IN IRELAND, 2014–2016**

Source: ORAC, 2015; 2016; 2017.

Note: Applicants comprise spontaneously arriving asylum seekers and persons arriving to Ireland through the relocation programme, including unaccompanied minors arriving under the relocation strand of the IRPP.

The direct impact of the refugee and migrant crisis on applications in Ireland is evident in the 2016 data: Syrian applicants accounted for the majority (11 per cent, or 244) of all asylum applications submitted in 2016 (see Figure 1.4). In addition, by participating in the relocation programme and the establishment of the Calais Special Project, Irish policy became indirectly affected by the crisis.

### **Relocation**

The EU response to the crisis includes the implementation of relocation and resettlement schemes. As noted in Section 1.2, resettlement is outside the scope of the current study. The EU proposed to relocate 160,000 people from Italy and Greece under two Council Decisions (European Commission, 2016a) in an attempt to show solidarity with third countries and 'frontline EU countries' affected by the crisis and with a view to addressing the global refugee crisis.

Table 1.1 shows that, under Council Decision 2015/1523, Ireland committed to relocating 600 persons from Italy and Greece. Under Council Decision 2015/1601, Ireland committed to relocating a further 2,022 persons from Italy and Greece.<sup>44</sup> The Decisions applied until September 2017. In total, Ireland committed to relocating a total of 2,622 persons from Italy and Greece.

TABLE 1.1 RELOCATION COMMITMENTS, IRELAND, 2016–2017

Relocation	Italy	Greece	Unallocated	Total
Council Decision 2015/1523 (16 September 2015–17 September 2017)	360	240	0	600
Council Decision 2015/1601 (25 September 2015–26 September 2017)	263	849	910	2,022
<b>Total relocation</b>	<b>623</b>	<b>1089</b>	<b>910</b>	<b>2,622</b>

Source: OPMI, 2017

The first relocated asylum seekers arrived in Ireland in January 2016.<sup>45</sup> The International Protection Policy Division noted that the State had welcomed 755 asylum seekers from Iraq and Syria as at 11 January 2018 under the relocation programme (European Commission, 2018). By early 2018, the IPP advised that Ireland will have admitted its entire cohort from Greece under the relocation programme (1,089).<sup>46</sup> On 23 March 2018, the Minister for Justice and Equality and the Minister of State with responsibility for Equality, Immigration and Integration announced that the EU relocation programme in Greece officially closed on 31 March 2018 and under this strand Ireland relocated 1,022 asylum seekers (Department of Justice and Equality, 2018).

Table 1.2 shows that the majority (57 per cent) of the relocated asylum seekers were adults. Out of 284 minors, some 40 per cent (114) were under the age of four years and 84 per cent (239) were under the age of 12. The Minister of State at the Department of Justice and Equality noted that the IRPP has had a strong focus on families and children and almost half of the admissions to date have been minors.<sup>47</sup>

<sup>44</sup> Correspondence with OPMI, November 2017.

<sup>45</sup> Ibid.

<sup>46</sup> Consultation with IPP, November 2017.

<sup>47</sup> Parliamentary Question, 4 October 2017 [42127/17], available at <http://www.parliamentary-questions.com/question/42127-17/>.

TABLE 1.2 RELOCATION ARRIVALS UNDER IRPP, NOVEMBER 2017 (BY EU DECISION)

Year	Total	Adults	Minors	Age 0–4	Age 5–12	Age 13–17
2016	240	132	108	42	45	21
2017	421	245	176	72	80	24
<b>Total</b>	<b>661</b>	<b>377</b>	<b>284</b>	<b>114</b>	<b>125</b>	<b>45</b>

Source: OPMI, November 2017.

### **Unaccompanied minors**

During the study period (2014–2016), the number of unaccompanied minors applying for international protection in the State rose marginally, from 20 in 2013, to 30 in 2014, to 33 in 2015, and to 34 in 2016. The number of unaccompanied minors who arrived in Ireland and were referred into the care of the Social Work Team for Separated Children decreased from 120 in 2013 to 97 in 2014 (Tusla, 2015). The number of referrals increased in 2015 to 109 and increased again to 126 in 2016 (Tusla, 2016). The increase in the number of referrals in 2016 was due in part to arrivals under the relocation and Calais Special Project strands of the IRPP.

Ireland agreed to admit 20 unaccompanied minors under the relocation strand of the IRPP. Ireland also committed to bringing up to 200 unaccompanied minors previously living at the Calais camp to Ireland under the Calais Special Project established by the Minister for Children and Youth Affairs, Katherine Zappone, TD (Fitzgerald, 2016). The Calais Special Project operates under the IRPP.

As of February 2018, 36 unaccompanied minors had arrived in Ireland from Calais, with a further five due to arrive by the end of that month.<sup>48</sup> At the time of research, according to RTE, the unaccompanied minors are all male (RTE, 2017); they are aged between 13 and 17 years, and are from Afghanistan, Eritrea, South Sudan and Syria.<sup>49</sup>

Additional information is available on 26 of the 36 young people who were relocated or who arrived under the Calais Special Project prior to 28 September 2017. Of this number, 23 were placed in the care of Tusla and three were reunited with family members already in Ireland.

<sup>48</sup> Parliamentary Question, 7 February 2018 [6210/18], available at <https://beta.oireachtas.ie/en/debates/question/2018-02-07/266/>.

<sup>49</sup> Parliamentary Question, 4 July 2017 [30782/17], available at <http://www.parliamentary-questions.com/question/30782-17/>.

In 2016, Ireland committed to relocating 20 unaccompanied minors from Greece and Italy under the EU relocation scheme. A total of 14 unaccompanied minors and separated children from Syria have been relocated from Greece as of January 2017.<sup>50</sup> No unaccompanied minors have been relocated from Italy to date.

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<sup>50</sup> Parliamentary Question, 4 October 2017 [42127/17], available at <http://www.parliamentary-questions.com/question/42127-17/>; Parliamentary Question 7 December 2017 [52459/17], available at <https://beta.oireachtas.ie/en/debates/question/2017-12-07/103/>.

## SECTION 2

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### Establishing an international protection system in Ireland

#### 2.1 INTRODUCTION

Historically, Ireland has been a country of significant emigration. In 1996, Ireland entered a new period of net immigration, as strong economic growth provided new employment opportunities for migrants. At the same time, asylum applications rose dramatically (Ruhs and Quinn, 2009). Mechanisms for the processing of applications were absent, and increasing pressure was placed on housing resources. In the context of such housing and infrastructure pressures, new legislation and policy was introduced to govern international protection in Ireland (discussed below). This section looks at the historical development of asylum law and policy in Ireland.

#### 2.2 ASYLUM APPLICATIONS, 1997–2013

Figure 1.3 above shows that applications for asylum in Ireland rose steadily from 1997 to 2000 (ORAC, 2017). Applications reached over 10,000 in 2000 (10,938), decreasing slightly in 2001 (10,325) before peaking in 2002 at 11,634. There was an increase of 1,309 asylum applications between 2001 and 2002, representing a 12.7 per cent rise in applications over the previous year (ORAC, 2003). Following this increase, asylum applications in Ireland decreased steadily from 2002 to 2013 (ORAC, 2003). There was a significant decrease in annual applications from the 2002 peak to 7,900 in 2003 and 4,766 in 2004. The Office of the Refugee Applications Commissioner (ORAC) scaled back its operations in response to the decrease in asylum applications from 2003 (ORAC, 2004; ORAC, 2005).

In 2001, the top six applicant nationalities were: Nigerian (34 per cent), Romanian (13 per cent), Moldovan (5 per cent), Ukrainian (4 per cent), Russian (3 per cent) and Croatian (3 per cent) (ORAC, 2002). In 2002, the top six applicant nationalities were: Nigerian (35 per cent), Romanian (14 per cent), Moldovan (5 per cent), Zimbabwean (3 per cent), Ukrainian (3 per cent) and Polish (3 per cent) (ORAC, 2003).

#### 2.3 CHANGES TO LEGISLATION AND POLICY DUE TO INCREASE IN ASYLUM APPLICATIONS

The Irish government reacted to the growing rates of asylum applications with changes in legislation and policy. The Refugee Act 1996, as amended by the Immigration Act 1999, came into effect in 2000. This Act established core aspects of the law governing applications for asylum in Ireland and generally set out the

process for lodging and determining an asylum application. The legislation established the ORAC and later as amended, the Refugee Appeals Tribunal. The Dublin Convention, which establishes the legislative process for determining the Member State responsible for processing an asylum application, was given effect under Irish law through the Refugee Act 1996.

### **2.3.1 Immigration Acts 1999, 2003, 2004**

The Immigration Act 1999 established the legal procedures for deportation from the State, including the making of the deportation order. The Immigration Act 2003 introduced carrier liability at section 5(10), making a carrier both legally and financially responsible for bringing an undocumented immigrant into the State. The Act sets out requirements for carriers to review the travel documents of those travelling outside the Common Travel Area (CTA), to check passengers will be granted permission to land.

The 2004 Act regulates the entry of non-nationals to the State and serves to overhaul the Aliens Act 1935. The Act contains a wide range of provisions, including determinants for the appointment of immigration officers and establishes criteria for permission to land. The Act enables the Minister for Justice and Equality to make orders regarding visas, including length of stay, and schedules a list of approved ports for the purpose of landing.

### **2.3.2 Changes to Irish citizenship law**

In the years preceding 2003, citizenship rights were conferred upon anyone born in Ireland. As a corollary to this provision, foreign parents of Irish-born children could apply for residency within the State. As a result, concerns were raised that non-Irish nationals travelled to Ireland, sometimes in the late stages of pregnancy, to give birth in the State in order to attain citizenship rights for the child (Ruhs and Quinn, 2009). The Irish Supreme Court ruled in 2003 that non-Irish parents of an Irish-born child could not rely upon the citizenship rights of their child to avoid deportation from the State.<sup>51</sup> The Court noted the considerable increase in asylum applications since the 1990s, and considered that it was within the government's powers to 'take evasive action to uphold the orderly running of the State's asylum system'.<sup>52</sup>

The referendum providing for the 27th Amendment to the Irish Constitution ended the automatic citizenship rights of children born in the State to foreign parents. ORAC noted that this change in the law contributed to the decline in asylum

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<sup>51</sup> Lobe, Osayande and Others v Minister for Justice, Equality and Law Reform [2003] IESC 1.

<sup>52</sup> Ibid.

applications in Ireland (ORAC, 2004). Other factors contributing to the decline in the numbers of asylum applicants included EU enlargement and the economic recession caused by the financial crisis of 2008.<sup>53</sup>

### **2.3.3 Prioritisation and designation of safe countries of origin**

In an effort to better manage the high number of asylum applications in Ireland, changes were implemented to the Refugee Act 1996, by way of the Immigration Act 2003. Amendments to the 1996 Act empowered the Minister for Justice under the Refugee Act 1996 (s. 12(1)) to issue prioritisation directives for applicants from certain countries or certain categories of applicants, including apparently unfounded claims, apparently well-founded claims and cases of family reunification.

The Minister for Justice was also empowered to designate ‘safe countries of origin’ in consultation with the Minister for Foreign Affairs and Trade. Asylum seekers from these countries were subject to a prioritised application process. This was given legal effect under the Irish Refugee Act 1996 (Safe Countries of Origin) Orders 2003 and 2004 (Quinn and Kingston, 2012).

### **2.3.4 Accommodating asylum applicants**

A government decision of November 1999 detailed a ‘central directorate’, which was to be established to deal with all matters ‘relating to the dispersal of asylum seekers throughout the country’ and to plan for a system of ‘direct provision of housing, health needs and so on’. The Directorate of Asylum Seeker Services (DASS) was established in November 1999 and later replaced by the Reception and Integration Agency (RIA) in April 2001 (Quinn and Joyce, 2014). RIA is tasked with the operation of those aspects of the Direct Provision system for which the Department of Justice and Equality is responsible – accommodation and related services. The system is designed to ‘directly provide’ for the welfare of asylum seekers as they await decisions on their asylum application (Thornton, 2014). Essential services such as bed, board and a small allowance are provided to asylum applicants (Thornton, 2014). Residents of the Direct Provision system are entitled to a weekly allowance of €21.60 (for adults and children) for needs such as clothing, sanitary products and miscellaneous expenses.

The system of Direct Provision does not have a legislative basis and is based on a number of administrative decisions and ministerial circulars (Thornton, 2013).

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<sup>53</sup> E.D. (Education) v. Refugees Appeals Tribunal [2016] IESC 77, para 13.

## **2.4 EARLY RELOCATION SCHEMES**

Relocation refers to the EU mechanism allowing for the transfer of asylum seekers requesting international protection from one EU Member State to another. The mechanism is designed to facilitate responsibility-sharing and solidarity between Member States. The first EU relocation project, the EU Pilot Project on Intra-EU Relocation from Malta (EUREMA), was implemented in 2010 and 2011. A second programme, known as EUREMA II, was carried out in 2012 and 2013. Ireland relocated 40 beneficiaries of international protection from Malta to Ireland between 2007 and 2013; these relocations did not form part of the EUREMA project (OPMI).

## SECTION 3

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### ASYLUM PROCESS AND NEW PROTECTION LEGISLATION

#### 3.1 INTRODUCTION

The original international protection system, incrementally put in place in response to the influx in the early 2000s, was overhauled in 2015 with the enactment of the International Protection Act 2015. The 2015 Act introduced a number of substantive changes to international protection law in Ireland. Upon entry into force, the Act serves to repeal and replace the Refugee Act 1996, and to further amend the Immigration Acts 1999, 2003, 2004. The 2015 Act overhauls the system for determining applications and introduces a single procedure for international protection applicants, thus bringing the Irish procedure into line with European practice. While the 2015 Act was not brought in as a result of increases in asylum applications in 2014–2015, its development formed part of the overall response plan set out with the launch of the Irish Refugee Protection Programme (IRPP) (Department of Justice and Equality, 2015; see Section 4 for further detail).

Prior to the commencement of the International Protection Act 2015, additional measures were brought in that are relevant to the increase in asylum applications, including the expansion of the International Protection Office (IPO) Legal Panel and improvements made in the area of reception conditions for asylum seekers. The measures that fall within the scope of this study are discussed below, including: new border control provisions; measures to expedite the asylum procedure under the Refugee Act 1996; the new streamlined procedure brought in under the International Protection Act 2015; the asylum procedure for persons relocated under the IRPP; and improvements to reception centres for asylum seekers. Section 3 looks at changes in Irish legislation relevant to the recent trends. Section 3.2 outlines changes introduced in the context of border control. Section 3.3 reflects on first instance decisions up to the introduction of new legislation. Section 3.4 outlines the new ‘streamlined’ asylum procedure established under the International Protection Act 2015. Section 3.5 looks at recent changes to the policies around reception conditions for asylum seekers.

#### 3.2 ASYLUM PROCEDURE: FIRST INSTANCE DECISIONS UP TO END DECEMBER 2016

Prior to end December 2016, a number of measures were introduced to improve efficiency in the asylum procedure under the Refugee Act 1996. In order to expedite the processing of cases, the IPO’s Legal Panel, which had been established in 2013, was expanded. The Legal Panel allows for more flexibility in terms of resources in case of future increases in asylum applications. The Panel assists the

caseworkers in their statutory functions by interviewing applicants and preparing draft reports based on the interview and a review of the file (ORAC, 2017).<sup>54</sup>

Following the introduction of new decision-making templates and revised guidelines, and the recruitment of additional staff members to the Legal Panel, waiting time for asylum interviews decreased and processing capacity increased over the course of 2015 (ORAC, 2016). Despite the decrease in interview waiting time in 2015 and the increase in capacity, application processing times increased from 10.8 weeks in 2015 to 16 weeks in 2016 (ORAC, 2016).

### **3.3 STREAMLINING THE APPLICATION PROCESS UNDER THE INTERNATIONAL PROTECTION ACT 2015**

The International Protection Act 2015 introduced a new single procedure system for applications for international protection (refugee status and subsidiary protection), and permission to remain (Department of Justice and Equality). This new system commenced on 31 December 2016. Under it, applicants make one application and all grounds are considered at the same time. Grounds for international protection are considered by the newly established International Protection Office (IPO, replacing ORAC). Separately, the Minister for Justice and Equality considers grounds for permission to remain. All three decisions are provided to the applicant at the same time.

If the applicant receives a negative recommendation for protection under the Act, applicants may appeal to the newly established International Protection Appeals Tribunal (replacing the Refugee Appeals Tribunal).

The Act also includes provisions for the return of failed asylum seekers.<sup>55</sup> Under it, applicants are advised of the option to voluntarily return to their country of origin at any stage before a final decision on their application is made, or within five days after the Minister issues the final decision. Where the applicant opts to voluntarily return to their country of origin, a deportation order is not issued.<sup>56</sup>

As noted above, the International Protection Act 2015 was not brought in as a result of the increase in applications in 2014 and 2015, though its commencement, and associated streamlining of the system, did form part of the plan set out under the newly formed IRPP (Department of Justice and Equality, 2015). The Act was also drafted and commenced during the European-wide change in influx.

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<sup>54</sup> Correspondence with IPO, September 2017.

<sup>55</sup> International Protection Act 2015 Section 48(3)(b).

<sup>56</sup> Consultation with IPP, November 2017.

IPO noted that the streamlined approach will lead to more efficient processing of applications in future once all backlogs are cleared.<sup>57</sup> Table 3.1 shows that in 2014 the number of cases that remained to be finalised was 743. This increased to 2,582 at the end of 2015. At the end of 2016, the number of cases that remained to be finalised was 1,550. Table 3.1 shows that the number of cases with decision pending in 2016 was higher than the total number of applications received in 2014.

TABLE 3.1 APPLICATIONS RECEIVED AND THOSE CASES WITH DECISION PENDING AT YEAR END, 2014–2016

Year	Applications	Outstanding decisions
2014	1,448	743
2015	3,276	2,582
2016	2,244	1,550

Source: ORAC, 2017.

Note: Cases with decision pending may relate to different years than the application data.

The McMahon Report (2015)<sup>58</sup> recommended clearing the backlog of asylum applications before commencing the 2015 Act, indicating that the Working Group had foreseen the increased waiting times and pressures stemming from transitioning from systems governed by the Refugee Act 1996, as amended to systems governed by the International Protection Act 2015. However, this recommendation was not implemented.

In 2014 and 2015, increases in applications were recorded and ORAC noted in their annual reports that staff and resource shortages contributed to the delay in processing applications (ORAC, 2015; ORAC, 2016). At present, waiting times for interview have increased and they are unlikely to fall for some time due to a processing backlog within IPO.<sup>59</sup> Commentators have reported that the average wait time for first interviews is 20 months for new asylum applicants (Irish Refugee Council, 2017a; Thornton, 2018). Due to the implementation of changes mandated by the new International Protection Act 2015 and limited staff resources, processing time for applicants increased from 10.8 weeks in 2015 to 16 weeks in 2016.<sup>60</sup>

<sup>57</sup> Correspondence with IPO, September 2017.

<sup>58</sup> The Minister for Justice and Equality published the *Working group report on improvements to the protection process, including Direct Provision and supports to asylum seekers* (McMahon Report) in 2015. The report contains 173 recommendations, many of which have implications for government departments.

<sup>59</sup> Interview with UNHCR, October 2017.

<sup>60</sup> Interview with UNHCR, October 2017.

UNHCR have noted that while the IPO Legal Panel has been expanded and more IPAT tribunal members hired, staffing remains a problem as there is a shortage of support staff, particularly at lower grades.

The backlog also applies to family reunification applications processed within INIS. Under the 2015 Act, eligibility for family reunification was restricted to the nuclear family; as a result, those who wished to apply to be joined by extended dependent family members had to apply before the new Act commenced. IRMC observed that this was a challenge to applicants who were receiving conflicting information, and that this also contributed to the backlog.<sup>61</sup>

IRMC observed that the backlog in asylum applications is a key challenge and that additional resources were required to deal with the transition to the new system (IRMC, 2017).<sup>62,63</sup> UNHCR observed that the backlogs and increased processing times, while partly a result of the introduction of the new Act, indicate that the international protection application system does not currently have sufficient capacity and may require further refinements in terms of ensuring an efficient process is in place.<sup>64</sup>

IPO noted that asylum applications also increased in 2017, as a result of the transition provisions of the 2015 Act, rather than an increased influx of asylum seekers. To deal with the increase in cases, additional staff have been assigned to IPO, including caseworkers, support staff and panel members.<sup>65</sup>

### 3.3.1 Access to legal advice

Asylum seekers in Ireland are entitled to free legal aid through the Legal Aid Board. In addition, NGOs provide legal information and support to applicants including Doras Luimní and the Law Centre at the Irish Refugee Council (IRC). The IRC received funding from the Department of Justice and Equality in 2014, 2015 and 2016 to provide early legal advice to asylum seekers. A drop-in centre, also based at the IRC, received grant funding through the State's 'Scheme to Support National Organisations' to provide case work support to asylum seekers and refugees.<sup>66</sup>

Doras Luimní have recently observed that many applicants could not get appointments with their Legal Aid Board solicitors. They stated that resources had

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<sup>61</sup> Interview with IRMC, September 2017.

<sup>62</sup> Interview with IRMC, September 2017.

<sup>63</sup> According to recent reports, it will take approximately 18 months for an applicant for international protection to get an interview from the date they lodge their application (Irish Refugee Council, 2017b).

<sup>64</sup> Interview with UNHCR, October 2017.

<sup>65</sup> Correspondence with IPO, September 2017.

<sup>66</sup> In addition, the IRC received a grant of €300,000 to provide legal and case work support for the 2017–2020 period.

not been allocated in time to deal with the needs of all applicants filling in the new applicant questionnaire.<sup>67</sup> Doras Luimní also stated that confusion around the ‘deadline’ for submission of the new questionnaire under the 2015 Act was unforeseen. Those already in the system had to transition to the new procedure by filling in a new questionnaire. The stage they were at under the Refugee Act 1996 determined how they would fill in the new questionnaire. Many applicants were worried that their application would not be submitted on time. The Department of Justice and Equality subsequently clarified that the deadline was only administrative and would have no negative impact on applications submitted after the closing date.<sup>68</sup>

### 3.3.2 Relocation

A small, dedicated Relocation Unit was established in the then ORAC (now IPO) in late 2015 to implement, drive and manage the asylum aspect of the September 2015 European Council relocation decisions.<sup>69</sup> It was to be the direct liaison with Italy and Greece, oversee arrangements for bringing relocation asylum seekers into the country, actively manage their international protection application and liaise closely with the IRPP.

Applications from relocated persons are fast-tracked. It was envisaged that assessments and decisions on refugee status for asylum applicants who arrived to Ireland through the relocation programme decisions would be made in centres within 10–12 weeks of their arrival (Department of Justice and Equality, 2015). Some interviews were carried out at the EROC and some applicants were brought to the IPO for interview.<sup>70</sup> UNHCR noted that most interviews now take place in IPO.<sup>71</sup> UNHCR also observed that the processing time has been longer than 10–12 weeks.<sup>72</sup>

IPO observed that the Relocation Unit embedded in the IPO but operationally linked with the IRPP proved effective in managing the relocation applicants.<sup>73</sup>

## 3.4 BORDER CONTROL

Bangladeshi and Pakistani applicants accounted for 50 per cent of all asylum applications in Ireland in 2015, at 9 per cent and 41 per cent respectively (see Figure 1.4). The majority of these applicants, according to IPO, had previously been

<sup>67</sup> Consultation with Doras Luimní, November 2017.

<sup>68</sup> Consultation with Doras Luimní, November 2017.

<sup>69</sup> Consultation with IPO, September 2017. The Relocation Unit consists of four to five staff members.

<sup>70</sup> Interview with UNHCR, October 2017.

<sup>71</sup> Interview with UNHCR, October 2017.

<sup>72</sup> Interview with UNHCR, October 2017; RTE (2018, 11 January). ‘Prime Time’.

<sup>73</sup> Correspondence with IPO, September 2017.

resident in the UK.<sup>74</sup> The influx of Bangladeshi and Pakistani applicants contributed to asylum application figures doubling between 2014 and 2015 (see Figure 1.3). The Minister for Justice and Equality reported that the Irish government was working with the authorities in the UK to address the issue of young men from Bangladesh and Pakistan who were present on UK visas there coming to Ireland to seek asylum (Lynch, 2015).

Section 81 of the International Protection Act 2015 amends the Immigration Act 2004 and was commenced on 10 March 2015. Section 81 introduces additional powers to immigration officers to refuse leave to land, allowing refusal where a person who 'entered the state for the purpose of extending his or her stay in the said CTA [Common Travel Area] regardless of whether or not the person intends to make an application for international protection'.<sup>75</sup>

UNHCR observed that section 81 was intended to act as a deterrent to a certain profile of migrants, but that to date it had not been used in practice.<sup>76</sup> Applications for asylum from Bangladeshi and Pakistani nationals decreased in 2016.<sup>77</sup>

### 3.5 RECEPTION

The government policy of Direct Provision (see section 2.3.4) has received sustained criticism in Ireland since its inception in 2000. In October 2014, a Working Group to report to government on improvements to the protection process, including Direct Provision and supports to asylum seekers, was established by the Minister for Justice and Equality and the Minister of State for the Department of Justice and Equality. Its report, known as the McMahon Report (2015), made recommendations to improve the reception conditions for asylum seekers.

The Reception and Integration Agency (RIA), the government authority with responsibility for accommodation for asylum seekers, looks after applicants who accept the offer of accommodation, in association with other government departments and agencies.<sup>78</sup> RIA noted that it continues to implement the relevant changes to reception accommodation for asylum seekers as recommended in the McMahon Report (2015). They also noted that these changes were not directly related to an increase in asylum applications and would be happening regardless of such developments. However, RIA observed that the introduction of communal

<sup>74</sup> Correspondence with IPO, September 2017.

<sup>75</sup> Section 4(3)(L) Immigration Act 2004, as amended.

<sup>76</sup> Interview UNHCR, October 2017.

<sup>77</sup> Pakistan and Bangladesh were not among the top six countries of origin of asylum applicants in 2016 (ORAC, 2017).

<sup>78</sup> Consultation with RIA, November 2017.

and/or self-catering accommodation will be extended to all centres as time and resources allow.<sup>79</sup> UNHCR also observed that due to political will, focus in the media, advocacy from civil society organisations on the issue of accommodation for refugees, the changes brought in by the introduction of the IRPP and the EROCs also had a positive impact on residents in accommodation for asylum seekers.<sup>80</sup> For example, there is now greater focus on developing self-catering facilities in the Direct Provision system,<sup>81</sup> as well as on granting asylum seekers the right to work (Carolan, 2017) and transitioning out of accommodation for asylum seekers (Ní Raghallaigh *et al.*, 2016).

Capacity within RIA has fluctuated over the years. In August 2013, RIA had a bed capacity of 5,302. This decreased in 2014 to 5,046.<sup>82</sup> Bed capacity increased in August 2015 to 5,429 and remained largely constant; in August 2016 it was at 5,433. Bed capacity decreased in 2017 and was recorded at 5,191 in August of that year.

Occupancy was between 85 and 88 per cent in 2013–2015, but decreased to 78 per cent in 2016. It was at 93 per cent in August 2017 (the most recent statistics available at the time of research). Bed capacity has been impacted upon by the increase in the number of asylum seekers, including relocated applicants, a higher than normal proportion of applicants taking up the offer of RIA accommodation,<sup>83</sup> the housing crisis,<sup>84</sup> and inefficient removals of persons with deportation orders.<sup>85</sup>

The challenges posed by the housing crisis may also be preventing spontaneously arriving asylum seekers from leaving state-provided accommodation after they have been granted permission to remain in Ireland.<sup>86</sup> UNHCR noted that some of the public accommodation pledges facilitated by the Irish Red Cross were used to support former asylum seekers leaving accommodation for asylum seekers.<sup>87</sup>

UNHCR commented that the asylum system must be effective from start to finish but that currently deportation orders are issued for persons who cannot be returned. This leads to inefficiencies in the system including as regards capacity in

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<sup>79</sup> Consultation with RIA, November 2017.

<sup>80</sup> Interview with UNHCR, October 2017.

<sup>81</sup> Interview with UNHCR, October 2017.

<sup>82</sup> The figures from 2014 are those for September as no August statistics were made publicly available that year.

<sup>83</sup> Consultation with RIA, February 2018.

<sup>84</sup> UNHCR observed that the current housing crisis has affected the government's ability to procure additional accommodation to deal with increased demand on bed space. UNHCR also observed that bed space is occupied by persons who have been granted residence permission, but cannot leave Direct Provision accommodation as they cannot find alternative accommodation. Interview with UNHCR, October 2017; Interview with IRMC, September 2017. IRMC and past EMN research (Arnold and Quinn 2016) observed that the housing crisis has also had a negative impact on finding long-term housing for resettled and relocated persons.

<sup>85</sup> Interview with UNHCR, October 2017.

<sup>86</sup> Consultation with RIA, November 2018.

<sup>87</sup> Interview with UNHCR, October 2017.

accommodation centres for asylum seekers (where persons with deportation orders are accommodated).<sup>88</sup>

Bed capacity has also been affected by structural refurbishments to the centres for asylum seekers.<sup>89</sup> For example, Georgian Court Direct Provision Centre in Dublin's city centre is closing. Old George Limited, the private contractor with responsibility for running the centre, noted that among the reasons for the closure was RIA's request to improve facilities, for example, by providing self-catering accommodation (Power, 2017).

The Immigrant Council of Ireland has observed that the current housing situation, as it relates to the IRPP, 'is not caused by inward migration but instead by the long-term, systemic failure to invest in housing' (D'Arcy and Pollak, 2017b).

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<sup>88</sup> Interview with UNHCR, October 2017.

<sup>89</sup> Consultation with RIA, November 2017. The McMahon Working Group on the Protection Process and Direct Provision System made a number of recommendations for the improvement of the Direct Provision system, and the Department of Justice and Equality has indicated that work is ongoing to progress the recommendations of the Working Group. IRMC also noted that there are reports of overcrowding in Direct Provision, especially for families. Interview with IRMC, September 2017.

## SECTION 4

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### IRISH REFUGEE PROTECTION PROGRAMME

#### 4.1 INTRODUCTION

In a statement on the crisis (28 April 2016), the Minister for Justice and Equality recognised that the Syrian civil war was the driving force behind the EU refugee and migrant crisis in Ireland (2014–2016), but noted that this should be seen in the wider context of general displacement globally; other factors contributing to displacement mentioned were poverty, conflict and climate change in Middle Eastern and African regions.

The IRPP was established by the Irish government in September 2015 in response to the humanitarian crisis in southern Europe. While the Minister for Justice and Equality referred to the crisis when launching the government’s programme established by the IRPP, and which included the resettlement and relocation strands, it was also noted that Ireland has not suffered the same migratory pressures as other Member States of the EU (Department of Justice and Equality, 2015).

This section outlines the main policy response to the EU refugee and migrant crisis in Ireland (2014–2016): the Irish Refugee Protection Programme (IRPP). Sections 4.2 to 4.8 outline the main aspects of the IRPP, while Section 4.9 considers current debate on the future of the IRPP.

#### 4.2 THE ESTABLISHMENT OF THE IRISH REFUGEE PROTECTION PROGRAMME

The IRPP is a whole-of-government programme. Through the EU Asylum, Migration and Integration Fund (AMIF), €18.632 million was allocated to Ireland for pledges under the resettlement and relocation schemes.<sup>90</sup> Ireland receives €10,000 per resettled refugee and €6,000 per relocated person. The EU also provides funding for specific vulnerable categories of refugees admitted. AMIF funding goes into centralised government funds and is then allocated to departments and local authorities through the normal national budget process (Arnold and Quinn, 2016). Additional staff and resources were allocated to Tusla, the IRPP, the International Protection Office (IPO), and the International Protection Appeals Tribunal (IPAT). Additional resources were allocated to the Reception and Integration Agency (RIA) for the procurement of Emergency Reception and Orientation Centres (EROCs).<sup>91</sup>

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<sup>90</sup> ‘Pledges’ refer to the number of persons the Irish government intend to resettle and relocate under the relevant EU-led schemes.

<sup>91</sup> Consultation with RIA, November 2017.

Staff were also hired to work in the EROCs.<sup>92</sup> The procurement of EROCs was managed by RIA on behalf of the IRPP. Staff in EROCs are recruited by the contractors, while services by state agencies are provided either directly through existing services or on-site as necessary.<sup>93</sup>

The IRPP has four key strands:

- resettlement and relocation in accordance with pledges made under the EU resettlement and relocation schemes (including the relocation of unaccompanied minors);
- a cross-departmental task force to deal with operational and logistical aspects of the programme;
- a method for engaging public pledges of support through the Irish Red Cross; and
- the EROCs.

In addition, the government established the Calais Special Project in 2017 to facilitate the relocation of unaccompanied minors in Ireland from France. The Calais Special Project also falls within the remit of the IRPP.

The four key strands mentioned above and the Calais Special Project are discussed under separate headings below. As noted in Section 1.2, resettlement is outside of the scope of the study, but it is discussed below where relevant.

As part of the IRPP, the government also committed to the commencement of the International Protection Act 2015 and to providing additional resources to deal with increases in asylum and other immigration cases (Arnold and Quinn, 2016). The changes brought about by the 2015 Act, including those relating to the asylum process, were discussed in Section 3.

UNHCR Ireland observed that a number of factors related to the Irish response to the refugee crisis represented positive change, including: the establishment of the IRPP; the level of engagement by ministers and the Tánaiste in the issue of international protection; and new and additional personnel joining the national bodies responsible for relocation, resettlement and spontaneously arriving protection applicants.<sup>94</sup>

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<sup>92</sup> Consultation with RIA, November 2017.

<sup>93</sup> Consultation with RIA, February 2018.

<sup>94</sup> Interview with UNHCR, October 2017.

### 4.3 RELOCATION

As part of the relocation strand of the IRPP, cooperation between the authorities in Ireland and those in Greece and Italy has been ongoing. The International Protection Policy Division (IPP) of the Department of Justice and Equality noted that the relocation programme in Greece is fully operational at present. In response to requests by the European Asylum Support Office (EASO), international protection case work officers were dispatched by ORAC and later the IPO to the Greek islands. Officers were requested to assist the Greek asylum authorities in implementing the arrangements agreed between the EU Member States and Turkey in tackling the refugee and migrant crisis.<sup>95</sup> By early 2018, the IPP advised that Ireland will have admitted its entire cohort from Greece under the relocation programme (1,089).<sup>96</sup>

The Minister for Justice and Equality announced that the final 129 asylum seekers relocated from Greece arrived in Ireland in March 2018. The Minister reported that this signifies the conclusion of Ireland's participation in the Greece strand of the EU relocation scheme. Ireland has received all asylum seekers available for relocation to Ireland from Greece. The total number of persons relocated to Ireland from Greece is 1,022 (Department of Justice and Equality, 2018).

The European Commission urged Ireland to resolve the security issues with Italy. Migration, Home Affairs and Citizenship Commissioner Dimitris Avramopoulos said, 'I call on Ireland [...] to find mutually acceptable working arrangements with Italy on security interviews in the way that for example the Netherlands, France and Greece have worked out successfully' (Avramopoulos, 2017). As of November 2016, arrangements have been made for Europol to facilitate exceptional additional security interviews, where security assessments by the Italian authorities would be deemed insufficient (European Commission, 2016b). The Minister of State has said that intensive efforts are ongoing to resolve the issue, using official, diplomatic and ministerial channels.<sup>97</sup> As at February 2018, no asylum seekers have been relocated from Italy. The IPP observed that this is due to a refusal by the Italian authorities to allow security assessment of candidates on its territory by Irish authorities.<sup>98</sup>

As the expected number of people to be transferred under the EU relocation scheme did not become available to Member States, including Ireland, the Calais Special Project was introduced (discussed below) and the Minister for Justice and

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<sup>95</sup> Consultation with IPP, November 2017.

<sup>96</sup> Consultation with IPP, November 2017.

<sup>97</sup> House of the Oireachtas, Dail Debates 2017, Written Answers 107, available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2017051600059?open&document>.

<sup>98</sup> Consultation with IPP, November 2017.

Equality in November 2017 announced the establishment of a new scheme of family reunification support of refugees and their family as a way of Ireland fulfilling its outstanding commitment under the Irish Refugee Protection Programme. This scheme is known as the Family Reunification Humanitarian Admissions Programme (FRHAP). It will see up to 530 immediate family members that are outside the scope of the International Protection Act 2015 come to Ireland as part of the IRPP, over a two-year period.<sup>99</sup> In addition, the Minister announced an increase in the number of refugees to be resettled in Ireland over the next two years. The resettlement commitment for 2018 was increased to 600 refugees, while a new pledge to resettle an additional 600 refugees in 2019 was made.<sup>100</sup> The figure for 2018 includes a carry-over of a proportion of the 2017 quota of approximately 260 persons.<sup>101</sup>

#### 4.4 UNACCOMPANIED MINORS

In December 2016, the then Tánaiste and the Minister for Children and Youth Affairs travelled to Greece. The Tánaiste reaffirmed the government's commitment to support Greece and the asylum seekers arriving there. In 2016, ten Irish experts were assigned to support the work of the EASO on the Greek islands of Lesbos and Chios, and were tasked with carrying out admissibility interviews and vulnerability assessments in cases relating to unaccompanied minors.<sup>102</sup> Ireland agreed to admit 20 unaccompanied minors under the relocation strand of the IRPP. As of January 2017, 14 unaccompanied minors were referred and have arrived in Ireland under the programme.<sup>103</sup> The Minister of State at the Department of Justice and Equality noted that it had been difficult to identify unaccompanied minors who were eligible for relocation in accordance with the Council Decisions.<sup>104,105</sup> UNHCR noted that there was a policy decision to focus on younger unaccompanied minors.<sup>106</sup> Tusla increased staff numbers to deal with the increase and potential age profile of unaccompanied minors through the relocation programme as well as the Calais

<sup>99</sup> Consultation with IPP February 2018.

<sup>100</sup> Consultation with IPP, November 2017.

<sup>101</sup> Consultation with UNHCR, February 2018.

<sup>102</sup> Deputy Catherine Zappone noted that Tulsa required additional resources; see Dáil Éireann Debate, 14 December 2016, [39976/16], available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2016121400030?open=document>.

<sup>103</sup> Parliamentary Question 4 October 2017 [42127/17], available at <http://www.parliamentary-questions.com/question/42127-17/>; Parliamentary Question 7 December 2017 [52459/17], available at <https://beta.oireachtas.ie/en/debates/question/2017-12-07/4/>.

<sup>104</sup> Council Decision (EU) 2015/1523 and Council Decision (EU) 2015/1601.

<sup>105</sup> Parliamentary Question 4 October 2017 [42127/17], available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2016121400030?open=document>.

<sup>106</sup> Consultation with UNHCR, February 2018.

Special Project (Zappone, 2017).<sup>107</sup> UNHCR noted that the focus in Ireland was on unaccompanied children though, in reality, the majority of children potentially eligible for relocation were ‘separated’ – with some other adult relative or person looking after them.<sup>108</sup>

#### 4.4.1 Calais Special Project

The Sangatte Protocol, signed by the governments of Great Britain and France, established a system of juxtaposed controls on certain routes crossing the English Channel. Under the arrangement, border controls manned by UK border agents operate in France prior to embarkation for the UK.<sup>109</sup> As a result of the arrangement, an unofficial migrant camp has developed in Calais. In response to this situation in Calais, Ireland committed to bringing up to 200 unaccompanied minors previously living at the camp to Ireland under the Calais Special Project established by the Minister for Children and Youth Affairs and Tusla. As of February 2018, 36 unaccompanied minors arrived in Ireland from Calais with a further five arriving by the end of that month.<sup>110</sup> The Calais Special Project also forms part of the IRPP. Unaccompanied minors arriving to Ireland from France are granted programme refugee status (Department of Justice and Equality, 2017b).

#### 4.5 COOPERATION: CROSS-DEPARTMENTAL AND INTERAGENCY TASKFORCE

In 2015, the Department of Justice and Equality announced the establishment of a new cross-departmental and interagency taskforce to coordinate operational aspects of the IRPP (Department of Justice and Equality, 2015). The taskforce was chaired by the Tánaiste (deputy prime minister) and membership of the taskforce comprised the main government departments that play a role in the delivery of services to refugees, as well as UNHCR Ireland and the Irish Red Cross (INIS, 2016b). UNHCR observed that the taskforce was the first of its kind in Ireland, and that it had the benefit of providing an open forum to discuss policy and procedures, in respect of beneficiaries of and applicants for international protection with other departments, not just the Department of Justice and Equality. In February 2018, the taskforce had not met since June 2017.<sup>111</sup>

UNHCR Ireland observed that participation in the IRPP has been beneficial to their work. Both UNHCR and the NGO the Irish Refugee and Migrant Coalition (IRMC) observed that practical engagement between the national authorities and NGOs in

<sup>107</sup> Ibid. In 2017, the Joint Committee on Justice and Equality’s Committee also recommended that more needs to be done for unaccompanied children and that Tusla should be properly resourced so that Ireland can meet its relocation commitments.

<sup>108</sup> Consultation with UNHCR, February 2018.

<sup>109</sup> Protocol between the UK and France concerning frontier controls and policing. Treaty Series No. 70 (1993).

<sup>110</sup> Parliamentary Question, 7 February 2018 [6210/18], available at <https://beta.oireachtas.ie/en/debates/question/2018-02-07/266/>.

<sup>111</sup> Consultation with UNHCR, February 2018.

respect of resettlement and relocation has improved since 2015. The organisations also observed more openness, cooperation and information sharing between state and NGO actors. In addition, the national authorities have reached out to NGOs, encouraging them to get involved in service provision and integration support.<sup>112</sup> In October 2017, the Minister of State for Equality, Immigration and Integration noted that the IRPP is 'willing to work organically with community bodies, NGOs and civil society to see what else can be added to the integration model in order to help refugees'.<sup>113</sup>

#### 4.6 EMERGENCY RECEPTION AND ORIENTATION CENTRES (EROCs)

EROCs were established to temporarily accommodate persons in need of international protection who have recently arrived via resettlement or relocation to Ireland, while their claims are being processed (Department of Justice and Equality, 2015; Minister of State at the Department of Justice and Equality, 2017).<sup>114</sup> RIA noted that an amendment to the planning regulations was introduced, which exempted premises from planning requirements for a period of three years if it was to be used as an EROC.<sup>115</sup>

RIA identifies premises operating as EROCs on behalf of the IRPP. It engages in negotiations with potential contractors for the supply and delivery of services in EROCs, as well as the acquisition of such services, working with the IRPP. Once the contract is signed and the premises are operational, the IRPP manages the day-to-day operations. The initial phase of acquiring housing and negotiating contracts added to RIA's workload for a short time.<sup>116</sup> Staff members were recruited for EROCs (Department of Justice and Equality, 2017a).

At the time of research, EROCs had been established in:

- Clonea Strand EROC, Dungarvan, County Waterford;
- Hazel Hotel EROC, Monasterevin, County Kildare;
- Abbeyfield EROC, Ballaghaderreen, County Roscommon; and
- Mosney EROC, County Meath.<sup>117</sup>

<sup>112</sup> Interviews with UNHCR, October 2017 and IRMC, September 2017.

<sup>113</sup> Parliamentary Question 17 October 2017 [44221/17], available at <http://www.parliamentary-questions.com/question/42127-17/>.

<sup>114</sup> EROCs were created with the aim of providing 'a safe and calm environment where these migrants [...] can take time to recover physically and mentally, acclimatise themselves to Irish society, learn English, and start planning for their future'.

<sup>115</sup> Consultation with RIA, November 2017.

<sup>116</sup> Consultation with RIA, November 2017.

<sup>117</sup> IRPP Presentation at Perilous Passage: Child Refugee Symposium, Children's Rights Alliance, Dublin, 5 April 2018. Mosney also operates as a Direct Provision centre.

The Office of the Ombudsman visited the original three EROCs. Staff of the Office of the Ombudsman met with residents to provide them with an opportunity to raise issues of concern. The Office of the Ombudsman then published a report on complaints in the context of Direct Provision, which included issues that have been identified by residents in EROCs. The report identified differences in the running of EROCs as an issue raised by residents and observed by staff of the Office. For example, residents from one centre in particular felt they were segregated from the local community (Office of the Ombudsman, 2018)

With the announcement of the EROC opening in Ballaghaderreen, local councillors expressed concern that the arrival of asylum seekers would increase the local population by 20 per cent, and questioned the capacity of local services to provide for the new arrivals (Brennan, 2017).<sup>118</sup> The IRPP also observed that opening new EROCs is a sensitive local issue.<sup>119</sup>

Since the arrival of persons in need of protection, several commentators have noted the positive response from the local community. IRMC highlighted Ballaghaderreen as a good example of civil society and the local community providing support. Irish media has reported that the local community and volunteers have welcomed Syrians to Ballaghaderreen. Foróige (the youth group) won a national prize for organising activities and a ‘welcome’ art project for the newly-arrived teenagers (Fanning, 2017).

Some RIA accommodation centres (for asylum seekers) are also used on a temporary basis to house persons in need of international protection, recently arrived via resettlement or relocation (Minister of State at the Department of Justice and Equality, 2017).<sup>120</sup> Media reports indicate that NGOs expressed disappointment that EROCs were similar to the unpopular accommodation provided for asylum seekers within the Direct Provision system. The Minister for Justice also commented on the similarities between the two systems (Pollak, 2015). The Office of the Ombudsman (2018) reported that issues raised by residents of the EROCs were similar to the issues that arose in Direct Provision centres. Residents made complaints about food, the standard of accommodation, and access to healthcare, including dental care.

RIA noted that service provision within EROCs, while mainstreamed, is more intense and focused as services are delivered to persons who will soon after arrival be placed within the community. They also noted that they continue to enjoy

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<sup>118</sup> Athleague councillor Ivan Connaughton described the plans at Ballaghaderreen as a ‘fait accompli’.

<sup>119</sup> IRPP Presentation at Perilous Passage: Child Refugee Symposium, Children’s Rights Alliance, Dublin, 5 April 2018.

<sup>120</sup> Consultation with OPMI, November 2017.

significant cooperation with all agencies across the range of government services.<sup>121</sup>

The IRPP model foresees short stays in EROCs and settlement in communities around the country. However, the IRPP reported that resettled refugees spend eight months to one year in an EROC before moving to long-term resettlement communities.<sup>122</sup> The Office of the Ombudsman (2018) reported that residents were disappointed with the length of time they spent in the EROCs. Residents who complained to the Office of the Ombudsman stated that they had expected to be housed in local communities and have their health needs addressed within a matter of weeks based on information they were given before arriving to Ireland. The IRPP challenged the accuracy of this complaint (Ombudsman, 2018). OPMI identified managing expectations as an objective of the interview process for prospective programme refugee families pre-arrival (Government of Ireland, 2013). The Office of the Ombudsman (2018) report observed that one centre appeared to 'run more smoothly than the others'. The report found that, typically, residents from the centre were accommodated in the local community within three months of arriving in Ireland.

The NGO Doras Luimní observed that some relocated asylum seekers feel they are not being given the same supports as resettled refugees, with whom they often share accommodation.<sup>123</sup> Doras Luimní also argued that a two-tier system for relocated asylum seekers and spontaneously arriving asylum seekers has also been created as in general persons accommodated under the IRPP are granted more freedom upon arrival and given more supports than those living in the Direct Provision system.<sup>124</sup>

#### 4.6.1 Capacity

UNHCR has noted that the EROCs are presently operating at full capacity and that it has not been possible to secure additional accommodation.<sup>125</sup> This has resulted in delays in resettling and relocating refugees and asylum seekers to Ireland under the IRPP. UNHCR indicated that delays in moving families into new homes in long-term resettlement communities in Donegal was likely caused by flooding (Roddy, 2017).<sup>126</sup> The Irish Times reported on 27 November 2017 that government officials have considered suspending the arrivals of asylum seekers and refugees from

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<sup>121</sup> Consultation with RIA, November 2017.

<sup>122</sup> IRPP Presentation at Perilous Passage: Child Refugee Symposium, Children's Rights Alliance, Dublin, 5 April 2018.

<sup>123</sup> Consultation with Doras Luimní, November 2017.

<sup>124</sup> Consultation with Doras Luimní, November 2017.

<sup>125</sup> Interview with UNHCR, October 2017.

<sup>126</sup> Consultation with UNHCR, February 2018.

Greece and Lebanon due to capacity issues in accommodating relocated asylum seekers and resettled refugees (D’Arcy and Pollak, 2017a).

The wider housing crisis in Ireland has made it difficult to secure more EROCs and to facilitate beneficiaries settling into new homes in long-term resettlement communities (D’Arcy and Pollak, 2017b). The limited housing supply has resulted in delays resettling programme refugees from Lebanon.<sup>127</sup>

As reported in the media, the Department of Justice and Equality identified various related challenges, including the availability of suitable properties. Only 12 offers of properties were received through the most recent 2017 tendering process. Many of were deemed unsuitable (D’Arcy and Pollak, 2017b). Other challenges to acquiring suitable housing for relocated and resettled refugees, as identified by the Department and reported by the Irish Times, included some local opposition (a recent scoping visit in Dundalk prompted negative feedback from the local population) (D’Arcy and Pollak, 2017b), legal requirements, and contract negotiations.<sup>128</sup> Difficulty was also encountered in relation to getting mainstream services delivered on-site, combating boredom and isolation, and in relation to child protection.<sup>129</sup> In the document ‘IRPP Background, Rationale and Functions’, for example, it is noted that Ballaghaderreen was selected (in part) due to proximity to general practitioners (GPs), local hospitals and availability for local services like shopping and transport (IRPP, 2017).

In June 2017, following a tender process, a hotel in Wexford was to become an EROC after agreement between Wexford County Council and the Department of Justice and Equality, but the plans fell through. Local councillors noted that the local community had not been consulted (Wexford People, 2017). RIA noted that they are in the process of acquiring new premises to increase bed capacity.<sup>130</sup> At the time of going to print, a new tender process for this was underway.<sup>131</sup>

#### 4.7 WIDER RECEPTION SERVICES

Before asylum seekers’ departure to Ireland, the International Organization for Migration (IOM), in consultation with the Health Service Executive (HSE), conducts medical screening, while members of An Garda Síochána (the Irish police force) carry out security screenings. Following resettlement, language and training

<sup>127</sup> IRPP Presentation at Perilous Passage: Child Refugee Symposium, Children’s Rights Alliance, Dublin, 5 April 2018.

<sup>128</sup> ‘The Irish Refugee Protection Programme’, Presentation made to AMIF Monitoring Committee, Dublin 12 September 2017, cited in OPMI.

<sup>129</sup> ‘The Irish Refugee Protection Programme’. Presentation to AMIF Monitoring Committee Dublin – 12 September 2017. OPMI, November 2017.

<sup>130</sup> Consultation with RIA, November 2017.

<sup>131</sup> Consultation with UNHCR, February 2018.

programmes are offered by the Education and Training Board (ETB) (Arnold and Quinn, 2016).

Under the IRPP, those arriving for relocation purposes are provided with:

- emergency health screenings;
- expedited registration for international protection;
- expedited registration for Personal Public Service Number (PPSN) (social security number) and medical cards;
- full board accommodation in EROCs;
- on-site language training and orientation; and
- weekly clinics.<sup>132</sup>

A number of authorities are involved in the implementation of the IRPP. It operates in coordination with local authorities to administer measures under the programme. An interagency working group has also been established at local level; it is chaired by the local authority, with representatives of the service providers meeting to ensure that the required services are available.<sup>133</sup> UNHCR emphasised that an interdepartmental approach to the delivery of the resettlement programme was essential at local level.<sup>134</sup> UNHCR also observed that support from other government departments in relation to dedicated funding allocation is required, for example in health and education.

EROCs are hubs for the provision of services such as health and education. In addition, EROC staff were recruited, some of whom provide orientation and integration services. EROC service management groups were established and meet monthly to identify any issues and to plan service delivery. These groups include all mainstream service providers and the IRPP, as well as the EROC manager.<sup>135</sup>

IRMC observed that in the past NGOs may not have been granted access to centres where resettled refugees were housed, but that this approach is slowly changing. While IRMC observed wariness between civil society and national authorities, they noted that there now seems to be greater understanding that civil society can play a role in providing integration support to resettled and relocated refugees.<sup>136</sup>

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<sup>132</sup> 'The Irish Refugee Protection Programme'. Presentation to AMIF Monitoring Committee Dublin - 12 September 2017. OPMI, November 2017.

<sup>133</sup> For further detail, see the website of the Office for the Promotion of Migrant Integration, 'the Irish Resettlement Process': [www.integration.ie](http://www.integration.ie).

<sup>134</sup> Interview with UNHCR, October 2017.

<sup>135</sup> Consultation with OPMI, November 2017.

<sup>136</sup> Interview with IRMC, September 2017.

### 4.7.1 Key challenges

The Irish Times reported on a private briefing paper prepared for the Minister for Justice and Equality in July 2017. It was reported that officials were concerned that the provision of services, in particular healthcare services, to refugees arriving under relocation and resettlement programmes, was inadequate for their needs. An internal note indicated that no budget had been allocated to the IRPP by the Department of Health, but that dormant account funding had been made available. It was further argued that the Department of Health was the only department not to assign additional resources to the IRPP. The lack of funding resulted in problems in dental treatment and general access to healthcare (D’Arcy and Pollak, 2017b). These challenges exist across the health system in Ireland. For example, medical card holders are entitled to two free fillings per year; however, many residents of the EROCs require dental treatment in excess of what is covered (Office of the Ombudsman, 2018).<sup>137</sup>

The significant demand for dental care among refugees and relocated refugees and asylum seekers was highlighted by IRMC and Doras Luimní.<sup>138</sup> Doras Luimní also observed that mental health services and counselling are not readily available to those in the IRPP.<sup>139</sup> SPIRASI, a non-governmental support organisation for survivors of torture who are asylum seekers, refugees or of other disadvantaged migrant groups, also observed record levels of demand for their services (Irish Refugee Council, 2016). The IRPP also identified meeting dental and mental health needs using the primary care system as an issue.<sup>140</sup> Access to abortion, for women seeking asylum, was also highlighted as a challenge in the Asylum Information Database (AIDA) report for Ireland (in Ireland, abortion is only available in exceptional circumstances) (Irish Refugee Council, 2016). Protection applicants are not permitted to travel out of the state without the express prior permission of the Minister for Justice and Equality.<sup>141</sup>

## 4.8 PUBLIC PLEDGES OF SUPPORT

In 2015, the Irish government asked the Irish Red Cross to coordinate pledges from members of the public to support refugees and asylum seekers arriving as part of the resettlement and relocation programmes (Department of Justice and Equality, 2015b). Pledges of accommodation, support, goods and translation services

<sup>137</sup> The staff of the Office of the Ombudsman put residents in touch with the Office of the Principal Dental Surgeon, who has discretion to look at applications for treatments not covered by the medical card.

<sup>138</sup> Interview with IRMC, September 2017; Consultation with Doras Luimní, November 2017.

<sup>139</sup> Consultation with Doras Luimní, November 2017.

<sup>140</sup> IRPP Presentation at Perilous Passage: Child Refugee Symposium, Children’s Rights Alliance, Dublin, 5 April 2018.

<sup>141</sup> At present, abortion is illegal in Ireland unless the pregnancy endangers the life of the woman. A constitutional referendum is planned to take place on Friday 25 May 2018 on whether to remove the Eighth Amendment of the Constitution of Ireland, which was brought in in 1983 by the Eighth Amendment of the Constitution Act 1983. The amendment recognises the right to life of the unborn child and the equal right to life of the mother and the unborn child. Appealing the Eighth Amendment would allow for the possibility of introducing legislation on abortion.

offered by the public were registered on its website, to allow the organisation to collate the data. The Minister of State noted that the government's contribution to the Irish Red Cross increased to approximately €500,000 from approximately €180,000 to cover the cost of providing this service.<sup>142</sup> Prior to the establishment of the IRPP, the Irish advocacy group Uplift set up a campaign for households to 'pledge a bed' for refugees in need of accommodation (Uplift, undated).

In November 2017, the Irish Red Cross reported that they had begun placing refugees in suitable housing and that 65 refugees had been settled in housing across nine counties. The Irish Red Cross noted that the refugees they had placed were mainly single people, though they had placed some families. They noted that the responsibility for housing refugees remains with the government. They also noted that they were unable to contact a significant number of those who had originally pledged housing or other supports (D'Arcy and Pollak, 2017a).

#### 4.9 FUTURE OF THE IRISH REFUGEE PROTECTION PROGRAMME

The IRPP was well received by the community sector and UNHCR. UNHCR observed that the scale of the media attention during the refugee crisis kept pressure on the government and the various government departments concerned.<sup>143</sup>

While IRMC observed that the measures that were introduced as part of the IRPP were ad hoc in nature,<sup>144</sup> UNHCR observed that the relevant departments now recognise, as a result of the recent experience of the increase in resettlement and relocation, that preparing for future arrivals requires sustained planning and infrastructure.<sup>145</sup> UNHCR (and IRMC) observed that there is a desire on the part of government to establish a clearer national policy around resettlement that might improve the infrastructure, thereby making it more scalable.<sup>146,147</sup>

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<sup>142</sup> Parliamentary Question 2 May 2017 [19779/17], available at <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2017050200067>.

<sup>143</sup> Interview with UNHCR, October 2017.

<sup>144</sup> Interview with IRMC, September 2017.

<sup>145</sup> Interview with UNHCR, October 2017.

<sup>146</sup> Interview with IRMC, September 2017.

<sup>147</sup> Interview with UNHCR, October 2017.

## SECTION 5

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# ADDITIONAL MEASURES RELATED TO TRENDS IN INTERNATIONAL PROTECTION

### 5.1 INTRODUCTION

A number of other measures and legislative changes were introduced during the study period (2014–2016) that relate to the increase in asylum applications. This section provides information on the one-off Syrian Humanitarian Admission Programme (SHAP). Integration measures that were introduced during the study period are also outlined. Changes to legislation in the context of family reunification, admissibility procedures, accelerated appeals, temporary protection and prioritisation brought in by the International Protection Act 2015 are discussed in Sections 5.4 and 5.5. Ireland's interventions at sea and the introduction of a new migrant NGO coalition are discussed in Sections 5.6 and 5.7, respectively. Lastly, Section 5.8 introduces some future measures that have been proposed.

### 5.2 SYRIAN HUMANITARIAN ADMISSION PROGRAMME

The Syrian Humanitarian Admission Programme (SHAP) was launched in 2014 by the Minister for Justice and Equality. It came into effect in March 2014 and ran until 30 April 2014. The programme aimed to offer temporary residence in Ireland to vulnerable persons in Syria or those who had fled to neighbouring countries as a result of the civil war there. Eligible sponsors were naturalised Irish citizens of Syrian birth and Syrian nationals lawfully resident in the state (Arnold and Quinn, 2016).

Family members were granted an initial period of residence for up to two years (INIS, 2016a). Under this scheme, 119 persons were granted permission to reside in Ireland out of 308 applications. This scheme is now closed (Arnold and Quinn, 2016).

### 5.3 INTEGRATION MEASURES

Recently there has been an increase in integration-related activities available to migrants in Ireland. UNHCR noted that there is renewed interest in integration.<sup>148</sup> UNHCR also observed that there has been an increase in community funds available to refugee, migrant and integration activities.<sup>149</sup>

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<sup>148</sup> Interview with UNHCR, October 2017.

<sup>149</sup> Interview with UNHCR, October 2017.

The Office for the Promotion of Migrant Integration provides funding for the purpose of integration for asylum applicants. Funding is provided through the Communities Integration Fund (OPMI, 2017a). David Stanton, Minister of State for Equality, Immigration and Integration, announced, in February 2017, that approximately €500,000 would be available in under the Communities Integration Fund (OPMI, 2017b). Applications for funding could be made under this scheme, and grants would be awarded of amounts ranging from €5,000 to €100,000. This call was not specifically aimed at asylum seekers, but some such funded projects may be assisting asylum seekers.<sup>150</sup>

In addition, in September 2016 it was announced that EU funding would be made available for migrant integration projects. Some €4.5 million would be allocated under the Asylum, Migration and Integration Fund (AMIF) to 'promote the integration of non-EU migrants and to combat discrimination and racism'. A further €3.3 million would come from the European Social Fund (ESF) to increase the employability of migrants. Under the AMIF, 20 projects were selected, of which 12 relate to integration and eight relate to reception activities targeted at asylum seekers.<sup>151</sup> The funds were awarded in 2016. The project implementation period is 2017–2020.

While funding was provided to organisations to undertake projects over a three-year period with migrants with a legal status, it is likely that asylum seekers will also benefit indirectly. All projects provide integration support services or promote integration.

Among the 20 projects, the emphasis is on:

- fostering integration through sport and through drama (1);
- providing holistic rehabilitation to victims of torture (1);
- providing integration interventions/activities in the school setting (2);
- providing information and training (capacity building) to service users and stakeholders on rights and entitlements (9);
- providing skills and training to migrants to help facilitate access to the labour market, the housing market and other important aspects (3);
- providing legal and case work support to refugees and asylum seekers (1);
- providing parenting, school readiness and other support to new community families (1); and
- political participation (1).

Four of the 20 projects are based in Dublin, five are national projects and the remaining 11 benefit the following counties: Carlow, Clare, Cork, Donegal, Galway,

<sup>150</sup> Correspondence with OPMI, November 2017.

<sup>151</sup> Correspondence with OPMI, November 2017.

Kerry, Kilkenny, Limerick, Mayo, Monaghan, Roscommon, Sligo, Waterford, Westmeath and Wexford. Grants range from €150,000 to €750,000. The IRMC observed that the funds made available in 2016 and 2017 brought some stability to the migrant community sector.<sup>152</sup>

In May 2017, €1.8 million was announced for allocation to 14 projects promoting the integration of immigrants in Ireland under the National Funding to Promote the Integration of Immigrants (Office of the Promotion of Migrant Integration, 2017). This call was not targeted at asylum seekers.<sup>153</sup>

The Employment for People from Immigrant Communities programme (Business in the Community – BITC) received €1,925,000 under the ESF for the period 2017–2021. BITC is also funded under the National Programme.

Doras Luimní observed an increase in local support for issues relating to asylum seekers and refugees. They noticed a surge in interest in integration and other supports for refugees, such as English classes and access to education, as well as an increase in awareness among third-level institutions and their willingness to engage with NGOs surrounding asylum seeker and refugee access to education. For example, the University of Sanctuary programme at the University of Limerick (UL) offers scholarships to those living in asylum seeker accommodation.<sup>154</sup> Dublin City University (DCU) was also designated as a University of Sanctuary in December 2016 (DCU, 2016), as was University College Cork in January 2018. Seven asylum seekers and refugees will receive full scholarships for University College Cork (UCC) from September 2018. The scholarships will also include annual bursaries covering travel and expenses (UCC, 2018).

#### 5.4 FAMILY REUNIFICATION

The increase in asylum applicants during this period generally did not change the national approach to regular migration. However, as discussed in Section 3 of this report, the International Protection Act 2015 substantially narrows the previous legislation for family reunification under the Refugee Act 1996 and the European Union (Subsidiary Protection) Regulations 2013.<sup>155</sup> The 2015 Act restricts eligibility for family reunification to spouses and civil partners, parents and unmarried minor siblings of minor children and children below the age of 18 who are unmarried. No provision is made for the reunification, for example, of children with grandparents or extended family, or of those aged over 18 with younger siblings. Under the Refugee Act 1996, sponsors (beneficiaries of international protection) could also

<sup>152</sup> Correspondence IRMC, September 2017.

<sup>153</sup> Correspondence with OPMI, November 2017.

<sup>154</sup> Consultation with Doras Luimní, November 2017.

<sup>155</sup> S.I. No. 426/2013.

apply to be joined by dependent family members (Arnold and Quinn, 2017). However, the dependant category has been removed under the 2015 Act. UNHCR observed that the intention of this change was primarily to bring Irish law closer to minimum standards set out in EU law, specifically Directive 2003/86/EC, rather than in response to an increase in asylum applicants in the state.<sup>156</sup> This aspect of the 2015 Act has been widely criticised (Arnold and Quinn, 2017; Joint Committee on Justice and Equality, 2017, February); IRMC, for example, has described this change as 'regressive' (IRMC, 2017).

## 5.5 ADMISSIBILITY PROCEDURES, ACCELERATED APPEALS, TEMPORARY PROTECTION AND PRIORITISATION

The 2015 Act provides formal admissibility procedures in Ireland; an accelerated appeal provision; and temporary protection.

Applications can be deemed inadmissible, as set out in section 21 of the Act, where another Member State has granted a protection status to the person or where a country other than a Member State is considered a first country of asylum. Pursuant to section 21, if an international protection officer determines that an application is inadmissible, they must make an inadmissibility recommendation to the Minister. The applicant may appeal this decision to the IPAT.

Section 43 allows for accelerated appeals where: the applicant has provided information to support their claim that is irrelevant, inconsistent, contradictory or improbable; the applicant has failed to make their application as soon as reasonably practicable; an international protection officer determines that internal protection is an option available to the applicant; or the applicant's country of origin is considered a safe country of origin.

Pursuant to section 60 of the 2015 Act, temporary protection refers to an imminent mass influx of displaced persons. Temporary protection can be granted to relevant displaced persons following a Council Decision under Article 5 of the Council Directive 2001/55/EC *on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof*.

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<sup>156</sup> Seanad Éireann Debate. (2017, 19 July). International Protection (Family Reunification) (Amendment) Bill 2017: Second Stage. Vol. 253 No. 2, available at [www.oireachtas.ie](http://www.oireachtas.ie).

UNHCR observed that these changes were also likely brought in to give further effect to the relevant directives (Directive 2005/85/EC and Directive 2001/55/EC), rather than in response to an increase in asylum applications.<sup>157</sup>

In 2014, the Office of the Refugee Applications Commissioner (ORAC) (now IPO) announced that under the European Union (Subsidiary Protection) Regulations 2013, it would accord priority to certain classes of applicants for subsidiary protection (ORAC). In order to exercise this policy effectively, ORAC received advice from UNHCR Ireland on the issue of prioritisation (ORAC, 2015, cited in Joyce and Whelan, 2014). Under the International Protection Act 2015, prioritisation is provided for in section 73. IPO and UNHCR published a document on prioritisation, which outlines those who should benefit from section 73. Priority cases include: unaccompanied minors in the care of Tusla; applicants who applied as unaccompanied minors, but who have aged out of care; applicants over 70 years old, who are not part of a family group; applications that are likely to be deemed well-founded, including due to the country of origin (Afghanistan, Eritrea, Iraq, Libya, Somalia and Syria); and applicants who notify IPO of a severe/life threatening medical condition. Family applications for prioritised applications and non-prioritised applications are processed together. This document is to be subject to ongoing review (IPO and UNHCR, 2017).

## 5.6 INTERVENTIONS AT SEA

In response to the lives lost at sea while attempting to reach Europe,<sup>158</sup> the Irish government participated in humanitarian rescues at sea operations. Ireland deployed the L.É. Eithne with Operation PONTUS (bilateral agreement with Italy) in May 2015. It rescued 15,621 migrants (European Commission, 2018b). In July 2017, it was announced that the patrol ship, W.B. Yeats, would replace L.É. Eithne under the Operation PONTUS bilateral agreement with Italy, but could switch to Operation Sophia, an EU military operation aimed at tackling the problem of migrant smuggling by closing established routes, as approved by Cabinet.

## 5.7 IRMC: A NEW NGO COALITION

UNHCR and representatives of the Irish Refugee and Migrant Coalition (IRMC) itself observed the establishment of IRMC as a positive development.<sup>159</sup> The coalition is composed of ActionAid Ireland, Amnesty Ireland, Association of Missionaries and Religious of Ireland, Community Work Ireland, Christian Aid, Comhlámh, Crosscare, Cultúr Migrants Centre, Dóchas, Doras Luimní, ENAR Ireland, Immigrant Council of Ireland, Irish Refugee Council, Jesuit Refugee Service, Mercy International

<sup>157</sup> Interview with UNHCR, October 2017.

<sup>158</sup> In 2016, 5,022 lives were estimated to be lost in the Mediterranean and 3,771 in 2015 (European Parliament, 2017).

<sup>159</sup> Interviews with UNHCR, October 2017 and IRMC, September 2017.

Association, Migrant Rights Centre Ireland, Mayo Intercultural Action, Nasc Ireland, National Women's Council of Ireland, Oxfam Ireland, New Communities Partnership, Places of Sanctuary, Trócaire and World Vision Ireland. The coalition was set up in 2015 to work collaboratively towards advancing the rights and dignity of people on the move and those in need of international protection (IRMC, undated).

## 5.8 FUTURE PLANS

A Private Members Bill that seeks to amend the family reunification provisions to expand the definition of eligible family members to include dependent family members is under consideration (Oxfam Ireland, Irish Refugee Council and Nasc, 2017). This Seanad Private Members Bill, which passed Committee Stage in the Seanad, is not supported by the government due to the Bill's brevity and the 'absence of an accompanying analysis of the practical and cost implications of its proposals'.<sup>160</sup> In addition, the government expressed concern that the introduction of the Bill could act as a 'pull factor', as it departs from the Family Reunification Directive<sup>161</sup> and UK policy on family reunification (Department of Justice and Equality, 2017c).

As discussed in Section 3, a new Family Reunification Humanitarian Admission Programme was announced. It proposes to support refugees to come to Ireland. The programme will welcome up to 530 family members of refugees in Ireland into the state over the next two years. This new scheme will operate under ministerial discretionary powers and will be in addition to the family reunification provisions provided for in the International Protection Act 2015. Sponsors will be asked to prioritise a small number of family members for admission to Ireland.

According to the Irish Refugee and Migrant Coalition (IRMC), it was announced that Ireland committed to the development of a Community Sponsorship Programme for Refugees. The announcement was made at the Annual Concordia Summit in New York (Amnesty Ireland, 2017).

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<sup>160</sup> Consultation with IPP, November 2017.

<sup>161</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

## SECTION 6

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### CONCLUSIONS

Due to a humanitarian crisis in southern Europe, the number of asylum applications lodged in the EU more than doubled between 2014 and 2015, from 627,000 to 1.32 million, before decreasing to 1.26 million in 2016. This became known as the refugee and migrant crisis. Although Ireland received fewer applications relative to other EU countries, the numbers here followed the general trend in that period: in 2014, some 1,448 applications were submitted, increasing to 3,276 in 2015 and decreasing to 2,244 in 2016.

This study looks at policies and practices in Ireland introduced in response to recent trends in international protection applications in the period 2014–2016. In Ireland, like in many other Member States, legislative and policy changes were introduced specifically to address fluctuations in the number of asylum applications or to better control migration flows. Such changes were made both in response to the wider refugee and migrant crisis, as well as to national increases and decreases in asylum applications.

#### 6.1 RECENT TRENDS IN INTERNATIONAL PROTECTION APPLICATIONS IN IRELAND

The data indicate that Ireland's 'influx' differed from that seen elsewhere in Europe. In the EU during 2015 and 2016, the main nationality group among first-time asylum applicants was Syrian, representing 29 per cent and 28 per cent of the total in each respective year. In Ireland, Pakistani nationals accounted for some 42 per cent of asylum applicants in 2015, followed by Bangladeshi (9 per cent) and Albanian (7 per cent) nationals. By 2016, the top three nationalities of applicants in Ireland were Syrian (accounting for 11 per cent of applicants), Pakistani (10 per cent) and Albanian (also 10 per cent) (ORAC, 2017). In 2015, Ireland's 'influx', or increase, may have been related to the Common Travel Area (CTA) shared with the UK (discussed further below). By 2016, Ireland was also directly impacted by the EU-level crisis, albeit one year later than many Member States. This is most evident in the increased number of Syrian asylum applicants, many of whom arrived under the EU relocation scheme.

As part of the overall response plan to the EU refugee and migrant crisis, announced in 2015 with the launch of the Irish Refugee Protection Programme (IRPP), the government committed to the commencement of the International Protection Act 2015, the introduction of the single application procedure and the provision of additional resources to deal with increases in asylum and other immigration cases.

## 6.2 TRANSITIONING TO THE NEW ASYLUM APPLICATION SYSTEM

Transitioning to the new system under the 2015 Act has resulted in delays in the processing of asylum applications. The waiting time for an IPO interview has increased and is unlikely to fall for some time due to a processing backlog. Commentators have reported that the average waiting time for first interviews is 20 months for new asylum applicants (Irish Refugee Council, 2017a; Thornton, 2018). IPO noted that the new streamlined approach will lead to more efficient processing of applications in future, once all backlogs are cleared. UNHCR observed that the backlogs and increased processing times, while partly a result of the introduction of the new Act, indicate that the international protection application system does not currently have sufficient capacity and may require further refinements in order to ensure an efficient process.<sup>162</sup> UNHCR further noted that while the IPO Legal Panel was expanded and more IPAT tribunal members were hired, staffing is still a problem as there is a shortage of administrative staff.

Increased waiting times and pressures stemming from the transition were foreseen. The McMahon Report (2015) for example recommended clearing the backlog of asylum applications before commencing the 2015 Act but this recommendation was not implemented. UNHCR indicated that waiting times are unlikely to fall for some time due to the processing backlog within the International Protection Office (IPO). The processing backlog is also likely to put additional pressure on accommodation systems for asylum seekers.

It was foreseen that assessments and decisions on refugee status for asylum applicants who arrived to Ireland through the relocation programme would be made in EROCs within 10–12 weeks of arrival; however, UNHCR observed that the processing time has been longer than this.

## 6.3 ACCOMMODATING SPONTANEOUSLY ARRIVING ASYLUM APPLICANTS

The availability of beds for asylum seekers in the Direct Provision system of accommodation has been impacted upon by increased flows of asylum seekers, including relocated applicants. There have also been delays in people leaving the system after they have been granted permission to remain in Ireland, often due to a scarcity of housing. Challenges faced in removing persons with deportation orders have further contributed to the problem. Bed capacity has also been affected by structural refurbishments to the centres for asylum seekers, which were brought in partly due to the McMahon Report recommendations on improvements to the asylum system.

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<sup>162</sup> Interview with UNHCR, October 2017.

#### 6.4 THE IRISH REFUGEE PROTECTION PROGRAMME

The IRPP was established by the Irish government in September 2015 in response to the humanitarian crisis in southern Europe (Department of Justice and Equality, 2015). Under the relocation strand of the IRPP, effective cooperation with the Greek authorities has resulted in 755 asylum seekers arriving in Ireland by 11 January 2018. However, no asylum applicants have yet been relocated from Italy, due to a divergence of views between the two states on acceptable security checks. Ireland agreed to the admission of 20 unaccompanied minors under the relocation strand of the IRPP and committed to bringing up to 200 unaccompanied minors previously living at the camp to Ireland under the Calais Special Project. Tusla increased staff numbers accordingly. However, it has proved difficult to find unaccompanied minors in Greece within the cohort eligible for relocation. As at November 2017, six unaccompanied minors had arrived to Ireland under the IRPP and 26 children had arrived from France as part of the Calais Special Programme. In November 2017, a new scheme of family reunification was announced as a means of Ireland fulfilling its outstanding commitment under the Irish Refugee Protection Programme.

A new cross-departmental and interagency taskforce comprises representatives from the main government departments that play a role in the delivery of services to refugees, as well as UNHCR Ireland and the Irish Red Cross. It is chaired by the Tánaiste (deputy prime minister). The taskforce has been welcomed by UNHCR and NGOs as a means of opening up policy and procedures and also of ensuring greater practical engagement between the national authorities and NGOs, in respect of resettlement and relocation, than that which occurred prior to 2015. In recent years, national authorities have reached out to NGOs, encouraging them to get involved in service provision and integration support for refugees and asylum seekers.

Emergency Reception and Orientation Centres (EROCs) were established to temporarily accommodate persons in need of international protection who had recently arrived via resettlement or relocation to Ireland, while their claims are being processed. To date, four EROCs have been established, which, due to their rural location, raised some concerns among local communities and their local government representatives. Since the arrival of protected persons, several commentators have noted the positive response from the local community, in particular in Ballaghaderreen. Some RIA accommodation centres are also used on a temporary basis to house persons in need of international protection, recently arrived via relocation.

The NGO Doras Luimní observed that some relocated asylum seekers feel they are not being given the same supports as resettled refugees, with whom they often

share accommodation. This organisation also argued that a two-tier system for relocated asylum seekers and spontaneously arriving asylum seekers has been created as, in general, those accommodated under the IRPP are granted more freedom upon arrival and given more supports than those living in the Direct Provision system. UNHCR noted that the EROCs are presently operating at full capacity and that efforts to secure additional accommodation last year were unsuccessful. Media reports indicate that the situation could lead to suspension of planned arrivals. The wider housing crisis in Ireland has made it difficult to secure more EROCs and to facilitate beneficiaries settling into new homes in long-term resettlement communities. RIA noted that they are in the process of acquiring new premises to increase bed capacity. In November 2017, the Irish Red Cross reported that they had begun placing refugees in suitable housing and that 65 refugees had been settled in housing across nine counties.

## 6.5 PROVIDING SERVICES TO ASYLUM APPLICANTS

The significant demand for dental care among refugees and relocated refugees and asylum seekers was highlighted by NGOs IRMC and Doras Luimní. Challenges in providing adequate mental health services and counselling to those in the IRPP were also highlighted.

UNHCR Ireland observed that a number of factors related to the Irish response to the refugee crisis represented positive change, including: the establishment of the IRPP; the level of engagement by ministers and the Tánaiste in the issue; and new and additional personnel joining the national bodies responsible for relocation, resettlement and spontaneously arriving protection applicants.<sup>163</sup> UNHCR observed that the relevant departments now recognise, as a result of the recent experience of the increase in resettlement and relocation, that preparing for future arrivals requires sustained planning and infrastructure.<sup>164</sup> UNHCR and IRMC observed that there is a desire on the part of government to establish a clearer national policy around resettlement that might improve the infrastructure, thereby making it scalable.

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<sup>163</sup> Interview with UNHCR, October 2017.

<sup>164</sup> Interview with UNHCR, October 2017.

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